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Foreign intercourse of the United States

Washington

1922

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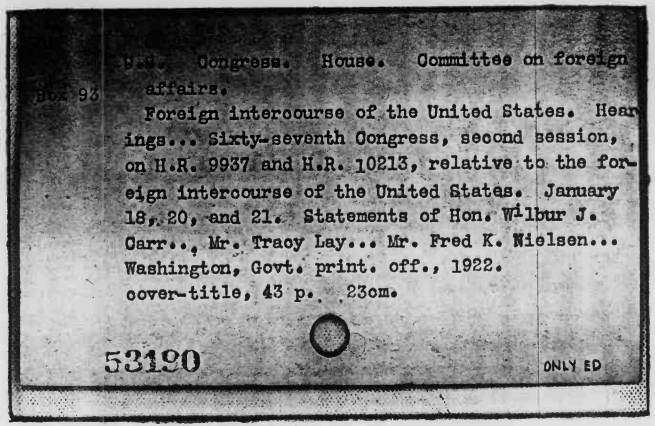
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FOREIGN INTERCOURSE OF THE UNITED STATES

HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS

HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH CONGRESS
SECOND SESSION

ON

H. R. 9937 and H. R. 10213

RELATIVE TO THE FOREIGN INTERCOURSE OF THE UNITED STATES

JANUARY 18, 20, AND 21, 1922

STATEMENTS OF

HON. WILBUR J. CARR, Director of the Consular Service, Department of State

MR. TRACY LAY, Department of State

MR. FRED K. NIELSEN, Solicitor, Department of State

WASHINGTON
GOVERNMENT PRINTING OFFICE
1922

95885

COMMITTEE ON FOREIGN AFFAIRS,

HOUSE OF REPRESENTATIVES.

SIXTY-SEVENTH CONGRESS, SECOND SESSION.

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FOREIGN INTERCOURSE OF THE UNITED STATES.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Wednesday, January 18, 1922.

[H. R. 9937, Sixty-seventh Congress, second session.]

A BILL Relative to the foreign intercourse of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1675 of the Revised Statutes is hereby amended so as to read as follows:

"SEC. 1675. That ambassadors and envoys extraordinary and ministers plenipotentiary shall hereafter be graded and classified as follows, with the salaries of each class herein affixed thereto:

"Ambassador, not exceeding fourteen in number, $17,500.

"Minister, class one, not exceeding three in number, $12,000.

"Minister, class two, not exceeding thirty in number, $10,000.

"That hereafter all appointments of ministers shall be by commission to a class and not by commission to any particular post, and such officers shall be assigned to posts and transferred from one post to another by order of the President as the interests of the service may require: *Provided,* That the salaries of $12,000 and $10,000 which have been or may be appropriated for ministers shall be available for ministers now receiving such salaries who may be recommissioned as ministers of class one and class two, respectively, or for persons promoted to the rank of minister from the lower grades of the Diplomatic and Consular Service, or from minister, class two, to minister, class one.

"No salary appropriated for any ambassador or minister shall be paid to any official receiving any other salary from the United States Government.

"The President shall be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, a minister resident and consul general to Liberia whose salary shall be at the rate of $5,000 per year, and an agent and consul general at Tangier and at Cairo, respectively, whose salary shall be at the rate of $7,500 per annum each."

SEC. 2. That section 1676 of the Revised Statutes is hereby amended so as to read as follows:

"SEC. 1676. That a commissioner appointed to act in any country shall be entitled to receive 75 per centum of the amount of salary received by the last ambassador or minister accredited to that country, or in the absence of previous diplomatic representation, to 75 per centum of the salary of a minister of class two; and chargés d'affaires so appointed shall be entitled to receive the same salary as a commissioner: *Provided,* That any diplomatic or consular officer may be designated to act as commissioner without loss of class or salary, and when so designated shall, if his salary is less than the salary of a commissioner as herein provided, be entitled to receive, in addition to his diplomatic or consular salary, compensation equal to the difference between such salary and that of a commissioner."

SEC. 3. That the President shall be, and he is hereby, authorized to appoint as secretary and as assistant secretary of embassy or legation in each of the following countries persons proficient in the use of the language thereof, who shall bear titles and receive compensation as follows:

Japanese secretary of embassy to Japan, $5,500; Chinese secretary of embassy to China, $5,500; Turkish secretary of legation to Turkey, $5,500; Japanese assistant secretary of legation to Japan, $4,000; Chinese assistant secretary of embassy to China, $4,000; Turkish assistant secretary of embassy to Turkey, $4,000; and the said offices are hereby established.

SEC. 4. That no money shall be expended from appropriations for clerks at embassies and legations for the employment of persons hereafter appointed who are not citizens of the United States, and so far as practicable all appointments of clerks at embassies, legations, and consulates shall be under civil service rules and regulations.

SEC. 5. That sections 1677, 1678, 1679, 1682, 1683, 1686, 1693, and 1696 of the Revised Statutes are hereby repealed.

SEC. 6. That the President shall be, and he is hereby, authorized to appoint interpreters as follows:

Interpreter to legation and consulate general to Persia, not exceeding one in number, $2,500 per annum; interpreter to legation and consulate general to Bangkok, Siam, not exceeding one in number, $2,500 per annum; and also to allow at his discretion a sum not exceeding the rate of $500 in any one year to any one embassy, legation, or any other diplomatic mission or consulate where no interpreter is regularly employed, for expenses of interpretation. And the offices herein mentioned are hereby established.

SEC. 7. That the President shall be, and he is hereby, authorized, under such rules and regulations as he may prescribed, to appoint student interpreters, who shall be assigned to the embassies and legations in the oriental countries, and whose duties it shall be to study the languages of such countries with a view to supplying interpreters to embassies, legations, and other diplomatic missions and consulates:

To China, not exceeding ten in number, $1,500 per annum each; to Japan, not exceeding six in number, $1,500 per anum each; to Turkey, not exceeding four in number, $1,500 per annum each; and such offices are hereby established: *Provided*, That the method of selecting such student interpreters shall be nonpartisan: *Provided further*, That upon receiving such appointment each student interpreter shall sign an agreement to continue in the service as an interpreter so long as his services may be required within a period of five years.

SEC. 8. That annual allowances for the rent of quarters and for the payment of the cost of tuition of student interpreters shall be made from such appropriations as may be provided therefore by Congress, which are hereby authorized.

SEC. 9. Section 1748 of the Revised Statutes is hereby amended so as to read as follows:

"SEC. 1748. The President is authorized to provide, at the public expense, all such stationery, blanks, records, and other books, seals, presses, flags, flagpoles, signs, and also for rent, repairs of buildings, postage, telegrams and cablegrams, furniture, furnishings, fixtures and equipment, repairs and materials for repairs, supplies, typewriters, including exchange of same, fuel and illuminants, freight, express, drayage, and customs charges, local transportation, newspapers and periodicals (foreign and domestic), and payment in advance therefor, printing and binding, printing in the Department of State, statistics taxes and rates, traveling and other expenses incidental thereto, loss on bills of exchange to and from embassies, legations, and other diplomatic missions and consulates, including such loss on bills of exchange to officers of the United States Court for China, compensation of Chinese writers, kavasses, guards, dragomans, porters, interpreters, dispatch agents, translators, messengers, and such other miscellaneous expenses as the President may think necessary for the several embassies, legations, and other diplomatic missions and consulates in the transaction of their business, and appropriations for such purposes are hereby authorized."

SEC. 10. That the Secretary of State is authorized, under such rules and regulations as he may prescribe, to pay the itemized and verified statements of the actual and necessary expenses of transportation and subsistence of diplomatic and consular officers and clerks in embassies, legations, other diplomatic missions and consulates, and their families and effects in going to and returning from their posts, or when traveling under orders of the Secretary of State, but not including any expense incurred in connection with leaves of absence; and appropriations for such purposes are hereby authorized.

SEC. 11. That the President is authorized, at the public expense, to make appropriate awards in the acknowledgment of the services of masters and crews of foreign vessels in rescuing American seamen or citizens from shipwreck or other catastrophe at sea; and appropriations for such purposes are hereby authorized.

SEC. 12. That the President shall defray, at the public expense, the expenses of transporting the remains of diplomatic and consular officers of the United States, including consular assistants and clerks, who have died or who may die abroad, or in transit, while in the discharge of their official duties, to their former homes in this country for interment, and for the ordinary and necessary expenses of such interment at their posts or at home; and appropriations for such purposes are hereby authorized.

SEC. 13. That the Secretary of State is authorized, out of any appropriations made by Congress for that purpose, to make annual or periodical contributions toward the support of foreign hospitals, seamen's missions, and other institutions of like nature, upon the assurance and with the understanding that suffering American seamen and citizens of the United States shall be admitted to the full privileges of such institutions; and appropriations for such purposes are hereby authorized.

SEC. 14. That all international commissions, congresses, conferences, conventions, and other like institutions of an international character to which the United States is or may become a party, or in the work of which the United States may participate as an adhering member, are hereby placed under the direction of the Secretary of State, and appropriations, within the limits fixed by Congress, are hereby authorized for the annual dues, quotas, and other necessary expenses incidental to such participation. The following are included among such authorized and established international objects:

Pan American Union, $100,000; International Commission on Annual Tables of Constants, and so forth, $500; Bureau of Interparliamentary Union for Promotion of International Arbitration, $2,000; International Railway Congress, $400; International Sanitary Bureau, $11,500; United States Section of the International High Commission, $25,000; International Research Council, $2,658; International Hydrographic Bureau, $3,860; International Prison Commission, $2,550: *Provided, however*, That nothing in this section shall be construed to modify or repeal the provision in the act of Congress approved March 4, 1913 (Thirty-seventh United States Statutes at Large, 912), requiring that the Executive shall not extend or accept any invitation to participate in any international congress, conference, or like event without first having specific authority of law to do so.

SEC. 15. That section 4122 of the Revised Statutes is hereby amended so as to read as follows:

"The President is authorized to pay out of such appropriations as may be made therefor by Congress, the making of which is hereby authorized, the actual expense of the rent and maintenance of suitable buildings in foreign countries for the incarceration of American convicts and those declared insane by the United States Court for China or by consular courts, together with the salaries and wages of keepers of the same and the care of prisoners and insane persons."

SEC. 16. That for the purpose of relief and protection the laws relating to seamen on foreign voyages shall apply to seamen on vessels going to and from the United States or its possessions and the Panama Canal Zone, the Territory of Alaska, the Hawaiian Islands, Porto Rico, and the Virgin Islands, the customs officers there being for this purpose substituted for consular officers in foreign ports.

SEC. 17. That secetion 1695 of the Revised Statutes is hereby amended so as to read as follows:

"The President is authorized to define the extent of country to be embraced within any consulate, and to provide for the appointment of vice consuls and consular agents therein, in such manner and under such regulations as he shall deem proper."

SEC. 18. That whenever any diplomatic or consular officers dies in a foreign country in the discharge of his duties, leaving a widow or minor child or children actually dependent upon his salary for their support, the Secretary of State may in his discretion recommend the payment to such widow or minor child or children of an allowance not exceeding one year's salary at the rate at which such officer was receiving compensation at the time of his decease, and appropriations for this purpose are hereby authorized.

SEC. 19. That there shall be in the Department of State an Undersecretary of State, to be appointed by the President, by and with the advice and consent of the Senate, who shall be entitled to a salary of $10,000 a year; a private secretary to the Undersecretary of State at a salary of $2,500 a year; a lithographer at a salary of $1,400 a year; chauffeur to the Secretary of State at a salary of $1,080 a year; and charwomen in such number as the Congress may authorize, each of whom shall receive a salary of $240 a year.

SEC. 20. That the Secretary of State is authorized to maintain passport bureaus at New York, New York; San Francisco, California; Chicago, Illinois; Seattle, Washington; and New Orleans, Louisiana; and to pay salaries and expenses of maintenance of said bureaus, including rent where office quarters are not available in buildings owned by the Government, out of such moneys as the Congress may appropriate for that purpose.

SEC. 21. That the Secretary of State is authorized out of any money appropriated for that purpose to pay for stationery, furniture, fixtures, typewriters, including exchange of the same, repairs and material for repairs, books, maps, periodicals (domestic and foreign), miscellaneous expenses, including maintenance and repair of a motor-propelled passenger vehicle to be used only for official purposes, automobile mail wagons, including repair and exchange of same, street car fare not exceeding $150, rent of buildings in the District of Columbia for storage and garage, and other items not included in the foregoing; and appropriations for such purposes are hereby authorized.

SEC. 22. That offices and salaries of officers and employees of the United States engaged upon work in connection with foreign intercourse and of officers and employees in the Department of State, for which individual appropriations have been made for the fiscal year 1922, are, except as modified in this act, hereby established and shall continue from year to year to the extent that they shall be appropriated for by Congress.

[H. R. 10213, Sixty-seventh Congress, second session.]

A BILL Relative to the foreign intercourse of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1675 of the Revised Statutes is hereby amended so as to read as follows:

"SEC. 1675. Ambassadors to the countries herein named shall be entitled to compensation at the rate of $17,500 per annum: Argentina, Belgium, Brazil, Chile, France, Germany, Great Britain, Italy, Japan, Mexico, Peru, Russia, Spain, Turkey, and appropriations for this purpose are hereby authorized.

"Envoys extraordinary and ministers plenipotentiary shall here after be graded and classified as follows, with the annual salaries of each class herein at the rate affixed thereto:

"Ministers, class one, not exceeding three in number, $12,000 per annum; minister, class two, not exceeding thirty in number, $10,000 per annum; and appropriations for the salaries of both classes of ministers are hereby authorized.

"That hereafter all appointments of ministers shall be by commission to a class and not by commission to any particular post, and such officers shall be assigned to posts and transferred from one post to another by order of the President as the interests of the service may require: *Provided*, That the salaries of $12,000 and $10,000 which have been or may be appropriated for ministers shall be available for ministers now receiving such salaries who may be recommissioned as ministers of class one and class two, respectively, or for persons promoted to the rank of minister from the lower grades of the Diplomatic and Consular Service, or from minister, class two, to minister, class one.

"No salary appropriated for any ambassador or minister shall be paid to any official receiving any other salary from the United States Government.

"A commissioner appointed to act in any country shall be entitled to receive 75 per centum of the amount of salary received by the last ambassador or minister accredited to that country, or in the absence of previous diplomatic representation, to 75 per centum of the salary of a minister of class two; and chargés d'affaires so appointed shall be entitled to receive the same salary as a commissioner: *Provided*, That any diplomatic or consular officer may be designated to act as commissioner without loss of class or salary, and when so designated shall, if his salary is less than the salary of a commissioner as herein provided, be entitled to receive, in addition to his diplomatic and consular salary, compensation equal to the difference between such salary and that of a commissioner."

SEC. 2. That section 1676 of the Revised Statutes is hereby amended so as to read as follows:

"SEC. 1676. That the President shall be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, a minister resident and consul general to Liberia whose salary shall be at the rate of $5,000 per year, and an agent and consul general at Tangier and at Cairo, respectively, whose salary shall be at the rate of $7,500 per annum each."

SEC. 3. That the President shall be, and he is hereby, authorized to appoint as secretary and as assistant secretary of embassy or legation in each of the following countries persons proficient in the use of the language thereof, who shall be citizens of the United States, and who shall bear titles and receive compensation as follows:

Japanese secretary of embassy to Japan, $5,500; Chinese secretary of legation to China, $5,500; Turkish secretary of embassy to Turkey, $5,500; Japanese assistant secretary of embassy to Japan, $4,000; Chinese assistant secretary of legation to China, $4,000; Turkish assistant secretary of embassy to Turkey, $4,000; and the said offices are hereby established.

SEC. 4. That no money shall be expended from appropriations for clerks at embassies and legations for the employment of persons hereafter appointed who are not citizens of the United States.

SEC. 5. That sections 1677, 1678, 1679, 1682, 1683, 1686, 1693, and 1696 of the Revised Statutes are hereby repealed.

SEC. 6. That the President shall be, and he is hereby, authorized to appoint interpreters as follows:

One interpreter to legation and consulate general to Persia, $2,500 per annum; one interpreter to legation and consulate general to Bangkok, Siam, $2,500 per annum; and also to allow at his discretion a sum not exceeding the rate of $500 in any one year to any one embassy, legation, or any other diplomatic mission or consulate where no interpreter is regularly employed, for expenses of interpretation. And the offices herein mentioned are hereby established.

SEC. 7. That the President shall be, and he is hereby, authorized, under such rules and regulations as he may prescribe, to appoint student interpreters, who shall be citizens of the United States, and who shall be assigned to the embassies and legations in the oriental countries, and whose duties it shall be to study the languages of such countries with a view to supplying interpreters to embassies, legations, and other diplomatic missions and consulates:

To China, not exceeding ten in number, $1,500 per annum each; to Japan, not exceeding six in number, $1,500 per annum each; to Turkey, not exceeding four in number, $1,500 per annum each; and such offices are hereby established; *Provided*, That the method of selecting such student interpreters shall be nonpartisan: *Provided further*, That upon receiving such appointment each student interpreter shall sign an agreement to continue in the service as an interpreter so long as his services may be required within a period of five years.

SEC. 8. That annual allowances for the rent of quarters and for the payment of the cost of tuition of student interpreters shall be made from such appropriations as may be provided therefor by Congress, which are hereby authorized.

SEC. 9. That section 1748 of the Revised Statutes is hereby amended so as to read as follows:

"SEC. 1748. That the President is authorized to provide, at the public expense, all such stationery, blanks, records, and other books, seals, presses, flags, flagpoles, signs, and also for rent, repairs of buildings, postage, telegrams and cablegrams, furniture, furnishings, fixtures and equipment, repairs and materials for repairs, supplies, typewriters, including exchange of same, fuel and illuminants, freight, express, drayage, and customs charges, local transportation, newspapers and periodicals (foreign and domestic), and payment in advance therefor, printing and binding, printing in the Department of State, statistics, taxes and rates, traveling and other expenses incidental thereto, loss on bills of exchange to and from embassies, legations, and other diplomatic missions and consulates, including such loss on bills of exchange to officers of the United States Court for China, compensation of Chinese writers, kavasses, guards, dragomans, porters, interpreters, dispatch agents, translators, messengers, and such other miscellaneous expenses as the President may think necessary for the several embassies, legations, and other diplomatic missions and consulates in the transaction of their business; and appropriations for such purpoes are hereby authorized."

SEC. 10. That the Secretary of State is authorized, under such rules and regulations as he may prescribe, to pay the itemized and verified statements of the actual and necessary expenses of transportation and subsistence of diplomatic and consular officers and clerks in embassies, legations, other diplomatic missions and consulates, and their families and effects in going to and return-

ing from their posts, or when traveling under orders of the Secretary of State, but not including any expense incurred in connection with leaves of absence; and appropriations for such purposes are hereby authorized.

SEC. 11. That the President is authorized, at the public expense, to make appropriate awards in the acknowledgment of the services of masters and crews of foreign vessels in rescuing American seamen or citizens from shipwreck or other catastrophe at sea; and appropriations for such purposes are hereby authorized.

SEC. 12. That the President shall defray, out of public funds, the expenses of transporting the remains of diplomatic and consular officers of the United States, including consular assistants and clerks, who have died or who may die abroad, or in transit, while in the discharge of their official duties, to their former homes in this country for interment, and for the ordinary and necessary expenses of such interment at their posts or at home; and appropriations for such purposes are hereby authorized.

SEC. 13. That the Secretary of State is authorized, out of any appropriations made by Congress for that purpose, to make annual or periodical contributions toward the support of foreign hospitals, seamen's missions, and other institutions of like nature, upon the assurance and with the understanding that suffering American seamen and citizens of the United States shall be admitted to the full privilege of such institutions; and appropriations for such purposes are hereby authorized.

SEC. 14. That the participation of the United States in all international commissions, congresses, conferences, conventions, and other like institutions of an international character to which the United States is or may become a party, or in the work of which the United States may associate itself as an adhering member, is hereby placed under the direction and supervision of the Secretary of State, and appropriations, within the limits fixed by Congress, are hereby authorized for the annual dues, quotas, and other necessary expenses incidental to such participation: *Provided, however,* That nothing in this section shall be construed to modify or repeal the provision in the act of Congress approved March 4, 1913 (Thirty-seventh United States Statutes at Large, page 912), requiring that the Executive shall not extend or accept any invitation to participate in any international congress, conference, or like event without first having specific authority of law to do so.

The following are included among such authorized and established international objects:

Pan American Union, $100,000; International Commission on Annual Tables of Constants, and so forth, $500; Bureau of Interparliamentary Union for Promotion of International Arbitration, $4,000; International Railway Congress, $400; International Sanitary Bureau, $11,500; United States Section of the Inter-American High Commission, $25,000; International Research Council, $2,658; International Hydrographic Bureau, $3,860; International Prison Commission, $2,550.

SEC. 15. That section 4122 of the Revised Statutes is hereby amended so as to read as follows:

"The President is authorized to pay out of such appropriations as may be made therefor by Congress, the making of which is hereby authorized, the actual expense of the rent and maintenance of suitable buildings in foreign countries for the incarceration of American convicts and those declared insane by the United States Court for China or by consular courts, and the salaries and wages of keepers of the same and the care and transportation of prisoners and insane persons."

SEC. 16. That for the purpose of affording relief and protection the laws relating to seamen on foreign voyages shall apply to seamen on voyages between the United States and any territory or possession thereof or between any territory or possession of the United States and any other territory or possession thereof, or from any foreign country to any territory or possession of the United States; for this purpose such officers of the United States as may be designated by the President shall be substituted for consular officers in foreign ports.

SEC. 17. That section 1695 of the Revised Statutes is hereby amended so as to read as follows:

"The President is authorized to define the extent of country to be embraced within any consulate, and to provide for the appointment of vice consuls and consular agents therein, in such manner and under such regulations as he shall deem proper."

SEC. 18. That whenever any diplomatic or consular officer dies in a foreign country in the discharge of his duties, leaving a widow or minor child or children actually dependent upon his salary for their support, the Secretary of State may in his discretion recommend the payment to such widow or minor child or children of an allowance not exceeding one year's salary at the rate at which such officer was receiving compensation at the time of his decease, and appropriations for this purpose are hereby authorized.

SEC. 19. That there shall be in the Department of State an Undersecretary of State, to be appointed by the President, by and with the advice and consent of the Senate, who shall be entitled to a salary of $7,500 a year; a private secretary to the Undersecretary of State at a salary of $2,000 a year; a lithographer at a salary of $1,400 a year; a chauffeur to the Secretary of State at a salary of $1,080 a year; and charwomen in such number as the Congress may authorize, each of whom shall receive a salary of $240 a year.

SEC. 20. That the Secretary of State is authorized to maintain passport bureaus at New York, New York; San Francisco, California; Chicago, Illinois; Seattle, Washington; and New Orleans, Louisiana; and to pay salaries and expenses of maintenance of said bureaus, including rent where office quarters are not available in buildings owned by the Government, out of such moneys as the Congress may appropriate for that purpose.

SEC. 21. That the Secretary of State is authorized out of any money appropriated for that purpose to pay for stationery, furniture, fixtures, typewriters, including exchange of the same, repairs and material for repairs, books, maps, periodicals (domestic and foreign), miscellaneous expenses, including maintenance and repair of a motor-propelled passenger vehicle to be used only for offical purposes, automobile mail wagons, including repair and exchange of same, street car fare not exceeding $150, rent of buildings in the District of Columbia for storage and garage, and other items of necessary expense not included in the foregoing; and appropriations for such purposes are hereby authorized.

SEC. 22. That offices and salaries of officers and employees of the United States engaged upon work in connection with foreign intercourse and of officers and employees in the Department of State, for which specific appropriations have been made for the fiscal year 1922, are, except as modified in this act, hereby established and shall continue from year to year to the extent that they shall be appropriated for by Congress.

SEC. 23. That the limit of cost for the acquisition of land and buildings in Paris, France, to be used as the American Embassy, fixed at $150,000 by an act entitled "An act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1922, approved March 2, 1921, is hereby increased to $300,000, or so much thereof as may be necessary, and an additional appropriation of $150,000 for this purpose is hereby authorized.

SEC. 24. That there is authorized to be appropriated, as a matter of grace and without reference to the question of liability therefor, to the Government of Japan, $5,000 for the benefit and consolation of the family of Torahachi Uratake, a Japanese subject killed on November 25, 1915, at Schofield Barracks, as set forth in the letter from the Acting Secretary of War dated February 19, 1916, and printed as House Document Numbered 785, Sixty-fourth Congress, first session.

SEC. 25. That section 6 of the act of June 30, 1906 (Thirty-fourth Statutes, page 816), be amended by adding at the end of the section the following:

"The Secretary of State shall exercise general supervision and direction over the district attorney as to the manner of discharging his duties, and the district attorney, the marshal, and the clerk shall report to the Secretary of State an account of their official proceedings and of the state and condition of their respective offices at such time and in such manner as the Secretary of State may direct.

"Whenever it appears to the satisfaction of the Secretary of State that by reason of absence from the jurisdiction, disqualification, or other inability to act on the part of the district attorney, the marshal, or the clerk the functions of said officers are not being properly discharged the Secretary of State may designate an attorney admitted to practice before the United States Court of China to act temporarily in the place of the district attorney and may likewise designate persons to act temporarily in the place of the marshal and of the clerk until the said Secretary of State shall find the temporary disability to be ended. The compensation of such temporary officials shall be fixed by the Secretary of State and paid from the appropriation for court expenses."

The committee this day met, Hon. John Jacob Rogers presiding.

Mr. ROGERS. The committee will please come to order. We have before us H. R. 9937, a bill relative to the foreign intercourse of the United States, which I introduced day before yesterday. This bill is intended to form the basis for appropriation bills hereafter, to protect them against wanton points of order and to bring up to date our foreign-service legislation. There are few important departures proposed in the bill from existing appropriating practice. That statement, however, is subject to one exception which will be developed in connection with section 1. Mr. Carr has assisted me in the preparation of this bill.

Mr. COOPER. May I ask a question?

Mr. ROGERS. Yes.

Mr. COOPER. I have not read section 1675 in a long time. That makes specific mention of the ambassadors and ministers who are to receieve these respective salaries. There is no mention of the countries here, but it says, ambasadors not exceeding 14 in number.

Mr. ROGERS. Section 1675 specifically mentions the four countries which are the original embassy countries.

As I was saying, Mr. Carr is very familiar with this bill. He is very much occupied at the moment with the annual consular examinations of the department, which are in his charge. I asked him to come here this morning to make a general statement about the bill and to answer general questions that the committee might propound. Then I hope, for the sake of Mr. Carr's duties at the department, the committee will release him and Mr. Lay, his associate, who has been before this committee a number of times, will be glad to sit with the committee if desired in a detailed consideration of the bill. If there is no objection I will ask Mr. Carr to make a general statement.

Mr. COCKRAN. I will not be able to stay here, so I would like to ascertain in advance if this bill is to obviate wanton points of order. Is that the purpose of the bill?

Mr. ROGERS. That is one purpose of it.

Mr. COCKRAN. Then it is not necessary for me to be here, because on a former occasion I recorded my objection to rules by legislation, and I reserve that to myself if favorable action is taken on this bill.

Mr. ROGERS. I recall very well your previous position.

Mr. FAIRCHID. This bill is a surrender to the position you took, and no longer involves doing away with the rules, but involves conforming to the rules?

Mr. COCKRAN. Do you have to pass a law in order to conform to the rules? I simply just record that objection to this method of getting around the rules.

Mr. ROGERS. This bill modernizes statutes which have become obsolete and out of date. It is designated to bring the old laws up to date and in conformity with appropriating practice of recent years. For example, the only statutory authority, as Mr. Cooper suggested a moment ago, for ambassadors is for the four ambassadors in the statute passed in 1893. What has been done by gradual growth in appropriation bills since that time has been to raise the number of ambassadors to 14. But the old authorization for four is still the law of the land. This bill proposes to collect all instances where the organic law is obsolete and to represent the actual legislative and executive practice of to-day. To that extent and to that degree, I think, it will serve a useful purpose.

Mr. COCKRAN. What do you mean by organic law? I do not quite understand that.

Mr. ROGERS. By organic law I mean the law which creates the fundamental powers of the State Department and the foreign service.

Mr. COCKRAN. As I understand it, that is the specific act passed creating four ambassadorships.

Mr. ROGERS. Yes; that is an example of the organic powers of the department.

Mr. COCKRAN. Since that, the number has been extended under successive provisions of appropriation bills.

Mr. ROGERS. Yes.

Mr. COCKRAN. Why is not a provision on an appropriation bill law as any other law?

Mr. ROGERS. So far as its validity from year to year is concerned, of course, it is of the same value; but it does not represent a permanency. It is a year-to-year bite at the subject.

Mr. COCKRAN. That is true with every ambassadorship, because if we did not appropriate from year to year they would go out of existence, ipso facto.

Mr. ROGER. Yes.

Mr. COCKRAN. I think the essence of such an appropriation for them, provide funds for that purpose, is quite another question. What I want to get at now is the point that this measure frankly is to get around the points of order that might be raised under existing law.

Mr. ROGERS. It goes a great deal further.

Mr. COCKRAN. That is one of its objects.

Mr. ROGERS. We will be glad to bear in mind your objection.

Mr. COCKRAN. If I can get back from this other meeting, I will come in to see what progress you have made. But I want to preserve my right to present to the House the question of whether rules can be obviated or whether they ought to be.

Mr. ROGERS. We shall be glad to hear from Mr. Carr now.

STATEMENT OF HON. WILBUR J. CARR, DIRECTOR OF THE CONSULAR SERVICE, STATE DEPARTMENT.

Mr. CARR. Mr. Chairman and gentlemen, this bill, as I understand it, in most respects is intended to enact into general legislation the various items in the appropriation bills as they stand at present for the current year. There are a few exceptions to that statement. The first section of the bill is a revision of section 1675 of the Revised Statutes. Section 1675 created or, rather, authorized the payment of salaries to ambassadors and ministers at the following rates: Those to France, Germany, Great Britain, and Russia, $17,500 each; those to Austria, Brazil, China, Italy, Japan, Mexico, and Spain, each $12,500; those to all other countries, unless a different compensation is prescribed by law, $10,000.

Since that statute was enacted, various appropriation bills have made changes and, indeed, there have been special acts of Congress creating embassies in certain countries as, for example, in Spain, Peru, Brazil, and several other places, so that section 1675, as it stands in the Revised Statutes, is obsolete when considered from the standpoint of the present appropriation act and appropriation acts that have been enacted for a number of years. Likewise the salaries of ministers have been considerably changed by appropriation acts, so that we have some ministers at $12,000 and the remainder at $10,000.

It is proposed by this act to apply to embassadors and ministers the same principle that Congress applied a few years ago to promote consuls and secretaries, namely, to classify them and stipulate the salary for each class, leaving the appropriation to vary from year to year with the number, as Congress may see fit. This leaves the entire control of the matter in Congress. It does not have to be revised from time to time as would be the case of the appropriations were made for specific purposes as they appear in the appropriation bills. By this method I think that Congress would gain a great deal in handling the matter. I think the President would gain a great deal by being able to transfer a minister from one place to another in the same class without changing his compensation, in precisely the same manner that is now done for consular officers and for secretaries in the diplomatic service.

There are two changes I would suggest, Mr. Chairman, on further consideration, and one is that I question the wisdom in lines 9 and 11, page 1, of placing a limitation upon the number of ambassadors and ministers that the President may appoint. It occurs to me that it may raise a rather serious constitutional question to place a limitation of that sort. The Appropriations Committee will naturally place a limitation. Congress will appropriate for as many as in its judgment ought to be appropriated for, but this language restricts the President from appointing more than a certain number. I believe we all agree that, in so far as the actual appointment is concerned, the President has the right to appoint ambassadors and ministers by and with the advice and consent of the Senate, although he can not pay them anything unless Congress appropriates the money.

Mr. COOPER. Could not that be construed as part of 1675, that not more than 14 of them shall have a salary of $17,500. He might employ other ambassadors, who get less salary than some of them have been getting under the appropriation bills. That would be the construction that would have to be placed on it, because if the question ever came up I have no doubt that the construction would be that the President still retains his right of appointment.

Mr. MOORES. It is the only construction the courts could give to it. The court would have to give that construction; it is the only construction that would be constitutional.

Mr. ROGERS. This language does not say the President shall appoint not exceeding the following number of ambassadors; it says that hereafter ambassadors and ministers shall be graded and classified as follows:

Mr. CARR. Yes.

Mr. ROGERS. It would lend itself very easily to your construction, Mr. Cooper?

Mr. COOPER. Yes.

Mr. MOORES. That is how any court would construe it.

Mr. COOPER. Yes; I think so.

Mr. ROGERS. What is the other suggestion?

Mr. CARR. The other suggestion is with respect to ministers. It occurred to me that you might want to leave out that language.

Mr. ROGERS. You suggest leaving out the words "not exceeding three in number" at the bottom of page 1 and "thirty" at top of page 2?

Mr. CARR. As being better legislation.

Mr. ROGERS. How long has the class system as distinguished from the post system been in the law as to consuls?

Mr. CARR. It came under the law in 1915 by the act of February 5, and applied it to secretaries and consuls.

Mr. ROGERS. Before that time every designation by the President must have been to a given post, both in the case of consuls general and consuls?

Mr. CARR. Yes.

Mr. ROGERS. Has the change worked well?

Mr. CARR. The change has worked exceedingly well. It has relieved the department and Congress; in fact, of a lot of unnecessary machinery, detail, etc., and accomplishes exactly the result which the other did not accomplish, and has given the department a leeway in handling it.

Mr. COOPER. Do you think that the President should be allowed to appoint ambassadors as he can, of course, under the Constitution? Or shall we provide by law that any ambassadors that he appoints shall receive $17,500, or do you want not more than the 14 now authorized by law to receive $17,500—only those to receive the $17,500. What is the point in the use of those words, "not exceeding"?

Mr. CARR. No. My thought is this: That you would annually appropriate for those ambassadors who are now getting $17,500, and that you would determine from time to time whether you would have 15 or 16 or 18; and if so, then you would appropriate for them; but if the President should appoint an ambassador beyond the number for which you appropriate, that ambassador would serve without compensation, of course.

Mr. COOPER. Let me ask you this question—and the answer to it will determine the whole thing. Suppose the 14 now appointed receive $17,500 each. Suppose the President would appoint three more. What salaries would they receive if we would enact this into law?

Mr. MOORES. We would have the right of appropriation.

Mr. COOPER. But if you do not limit it to 14.

Mr. CARR. I do not see that they would receive any.

Mr. COOPER. You say ambassadors, etc., shall receive the salary herein fixed, and you strike out "not exceeding 14 in number," and just say "ambassadors at $17,500." Then you would have any ambassador—the ones now in existence or those customarily appointed—all ambassadors to receive $17,500.

Mr. ROGERS. I suppose, as a matter of fact, these four gentlemen who are representing us at the Arms Conference, and who have the rating of ambassador, would come within this language if there were no limitation on the number.

Mr. CARR. They might; but it is assumed that Congress, in appropriating for an arms conference, would place a limitation upon the use of the funds in each individual case. For instance, I can not conceive of Congress appropriating a sum for the Arms Conference and using language in a general bill of legislation like this enabling the President and Secretary of State out of that appropriation to pay the salary of an ambassador fixed by this particular law. I should think in every case of an appropriation of that sort Congress would definitely, as is its habit, place a limitation upon the use of the appropriation.

Mr. COOPER. Suppose you strike out the words "not exceeding 14 in number." Then you have as permanent law section 1675, the statute reading that ambassadors shall be graded, and with the salaries affixed thereto, at $17,500. Now, we appropriate this time, say, for 14—those that have already been appointed.

Mr. CARR. Yes.

Mr. COOPER. Under this the President appoints other ambassadors. Then, the next appropriation bill comes up and then there is permanent law providing that they shall receive $17,500. That is the law that will be on the statute books.

Mr. CARR. Yes; that is true. It will make all ambassadors that may be appointed and appropriated for by Congress receive the same salary.

Mr. COOPER. The law will be permanent law; and the Appropriations Committee will, of course, give them $17,500, because that is permanent law, or will be.

Mr. CARR. Yes.

Mr. COOPER. Do you think we ought to appropriate or provide that all ambassadors, those existing and those hereafter appointed, shall get $17,500?

Mr. CARR. As a matter of fact, I do not see any objection to that; it is small enough as it is.

Mr. COOPER. I thought that was what you wanted; that is the reason I was getting down to it.

Mr. CARR. I think that an ambassador to any country is worth at least $17,500.

Mr. ROGERS. Is there any reason which occurs to you why in this particular respect ambassadors and ministers should be treated in one way and secretaries and consuls in another? I mean in the matter of using what we call the class system as opposed to the post system.

Mr. CARR. There have been suggestions made that ambassadors and ministers fall in a class apart from secretaries and consuls, because their appointments were of a more personal nature and that it was a matter of greater importance that in the confirmation, for example, consideration be given to the place to which the ambassador or minister was to be appointed. I think we have tested that out very carefully in the matter of secretaries and in the matter of consuls and consuls general, and I think the result is substantially the same whether you appoint them by the class system in this fashion or whether you appoint them by the post system. The Executive is going to send the man of his choice in any event, or practically so, and it makes in the long run very little difference.

Mr. ROGERS. In recent years there have been many instances where an ambassador or minister has been transferred from time to time to a considerable number of different posts as chief of mission.

Mr. CARR. Yes. In the last five years that has happened quite frequently. A man has served well at one post and a good man is needed at another post. That man is promoted or transferred, as the case may be. It has been done quite frequently in the last 10 years. This would facilitate the practice rather than retard it.

Mr. ROGERS. If there are no other questions on section 1 we will proceed to other places where existing appropriating practice is departed from in this proposal.

Mr. CARR. At the end of section 1, lines 18 to 22, page 2 of the bill, there is a provision for the compensation of the agent and consul general at Tangier and at Cairo. In existing legislation Tangier has a salary of $7,500 and Cairo a salary of $6,500. This bill gives both the same. As a matter of fact, both ought to have the same salary. If anything the living expenses, etc., are much heavier in Cairo than they are in Tangier, and it is really unfair to establish Cairo permanently at a lower salary than Tangier.

Mr. COOPER. Is the word "commissioner" in the first line at the top of page 3—"That a commissioner appointed to act in any country"—definite in that meaning, used in that way—"That a commissioner"?

Mr. CARR. I think it is. It means only one thing in the parlance of the State Department. It means an officer who is neither a minister, nor ambassador, nor chargé d'affaires, and who is not a member of the regular establishment.

Mr. MOORE. That commissioner has the meaning of a diplomatic commissioner. We have United States commissioners in a number of countries, who are not diplomatic commissioners, to take acknowledgments of deeds and things of that sort, such as those in the Court of Claims.

Mr. COOPER. The kind of commissioner I have in mind ought to be specified definitely, whatever it means.

Mr. CARR. Mr. Lay suggests "commissioners of the Department of State." I am not quite sure that that is a broad enough term. The commissioner, as I understand it, means this sort of an officer: An officer who is sent by the Secretary of State to a country that we have not recognized.

Mr. COOPER. Why not say a commissioner appointed by the Secretary of State?

Mr. ROGERS. He is appointed by the President.

Mr. CARR. Nominally, he is appointed by the President. Actually, the commissioners recently appointed have been officers of the foreign service designated to act as commissioners. The designation was really made by the Secretary of State in the name of the President.

Mr. TEMPLE. That covers all these missions that we have been maintaining in the countries.

Mr. CARR. Yes. Those commissioners were men appointed to countries we had not recognized, and, therefore, to which we could not send a member of the regular establishment, as ambassador, minister, secretary, or agent. Therefore, they are designated as commissioners?

Mr. TEMPLE. How do they get their appointments?

Mr. CARR. With the exception of Mr. Dresel, who was at Berlin—I think he was appointed by the President—the others were men bearing Presidential appointments, consuls general or secretaries in the Diplomatic Service. They were designated as commissioners by the Secretary of State.

Mr. COOPER. Would this do: "That a commissioner duly appointed to act for the United States in any country"?

Mr. CARR. Duly appointed to act for the United States in any country?

Mr. COOPER. In any foreign country.

Mr. CARR. Yes.

Mr. TEMPLE. Is not that a temporary situation?

Mr. CARR. Invariably a temporary situation.

Mr. TEMPLE. Then what objection can there be to defining it as a diplomatic commissioner? What is the objection to the use of the word diplomatic?

Mr. CARR. I think there is an objection if that is required to go into his title.

Mr. TEMPLE. A commissioner to be appointed in any country to act in lieu of an ambassador or minister.

Mr. CARR. Or to act in maintaining relations? That is just what we do not want.

Mr. COOPER. To perform any diplomatic or consular service for the United States?

Mr. CARR. That is precisely what we do not do.

Mr. COOPER. What do they do?

Mr. CARR. They keep us informed and maintain an informal relationship with a people whose Government we have not recognized.

Mr. COOPER. Sort of a morganatic diplomat.

Mr. CARR. We can not define it as diplomatic, and we can not define it as maintaining relations. That is what we do not want to do.

Mr. MOORES. Why not give them another name? Call them legatees.

Mr. CARR. I am sorry I can not think of language to accomplish that.

Mr. COOPER. They ought to be in the law identified accurately.

Mr. CARR. Mr. Lay suggests a commissioner appointed to act for the Department of State in a country in which there is no diplomatic representative.

Mr. TEMPLE. It seems to me that hits it.

Mr. MOORES. That is very clear.

Mr. CARR. A commissioner appointed to act for the Department of State in any country in which there is no United States diplomatic representative.

Mr. TEMPLE. Or representation.

Mr. ROGERS. It seems to me that these officers do not act for the Department of State in any sense. They act for the Nation.

Mr. CARR. That was the objection I first made to the suggestion that by making them commissioners of the Department of State it is rather too narrow.

Mr. ACKERMAN. Would it not be better to put in some words like accredited representative of the United States because there may have been a minister or consul removed? He might be actually in the country.

Mr. CARR. "An accredited representative." That is very good.

Mr. ROGERS. We might pass that temporarily and proceed, coming back to it if any further suggestions are forthcoming.

Mr. FAIRCHILD. Coming back to the last paragraph of section 1, a minister resident and consul general to Liberia. You have already provided at the bottom of page 1 and at the top of page 2, that ministers shall be divided into two classes, the $12,000 class and the $10,000 class. Is not that a contradiction in terms to first provide that ministers shall be divided into the $12,000 class and the $10,000 class and then to provide that the minister to Liberia shall get $5,000?

Mr. CARR. A minister resident is a lower grade officer than a minister.

Mr. FAIRCHILD. What means the expression "minister resident"?

Mr. CARR. The expression "minister resident" is a technical term for an officer of lower grade than a minister.

Mr. ROGERS. Will you proceed to indicate the changes in the law or practice?

Mr. CARR. Yes.

Mr. COOPER. You notice that ambassadors' salaries are $17,500? You do not use the word "annual," nor do you say "at the rate of," but when you get over to Liberia and Tangier you say "at the rate of so much, at the rate of $7,500."

Mr. CARR. I think the words "at the rate of" should be put in section 1.

Mr. COOPER. Annual salaries at the rate of. It ought to be uniform, the same for each.

Mr. CARR. Surely.

Mr. MOORES. Do that at the start in your salaries in each class.

Mr. COOPER. Yes; and that one for Liberia should be changed to "whose annual salary shall be $5,000 per year."

Mr. ROGERS. Mr. Lay suggests that the language which is here set forth has been carried in the law in several places, although, of course, that does not prove it is correct legislation. An act for the improvement of the foreign service approved February 5, 1915, has this exact language. Section 3 reads that secretaries in the Diplomatic Service and consuls-general and consuls shall be hereafter graded and classified as follows—with the salaries of each class herein affixed thereto: Secretaries of class one, $3,000, etc. Perhaps we can improve the 1915 statute. I do not believe, however, there is any real ambiguity as it stands.

Mr. COOPER. There is no ambiguity except there ought to be uniformity.

Mr. ROGERS. If there are no more questions on section 1 or 2, you may proceed.

Mr. CARR. Section 1675. That is a proposed reenactment with some changes of part of the old section 1675. Those changes are changes very largely in language. They provide:

"That a commissioner appointed to act in any country shall be entitled to receive 75 per cent of the amount of salary received by the last ambassador or minister accredited to that country, or, in the absence of previous diplomatic representation, to receive 75 per cent of the salary of a minister of class 2."

That is a lower grade minister.

Mr. COCKRAN. What does he get?

Mr. CARR. $10,000; and this gives the commissioner 75 per cent of the salary of that officer in case there has never been a diplomatic representative in that country. If put into practical operation at the present time the man who has been serving as commissioner in Berlin would under this statute get 75 per cent of $17,500 because there has been an ambassador there. The man representing us in Riga would get 75 per cent of the lowest grade minister, namely, 75 per cent of the $10,000, because there has never been a diplomatic representative there. I think that is fair. There is no question but that a man representing this country in a place like Berlin, where there has been an embassy, ought to have much more salary than a man representing us in a country like Esthonia, where there has never been a diplomatic representative and which is a small country.

Mr. CONNALLY. You say here, "Any chargés so appointed shall be entitled to receive the same salary as a commissioner." That is, if he is temporarily acting. Does he get that for that period of time?

Mr. CARR. That is taken care of in the proviso beginning on line 8:

"*Provided*, That any diplomatic or consular officer may be designated to act as commissioner without loss of class or salary, and when so designated shall if his salary is less than the salary of a commissioner as herein provided, be entitled to receive, in addition to his diplomatic or consular salary, compensation equal to the difference between such salary and that of a commissioner."

Mr. CONNALLY. This is a change. Does it do that?

Mr. CARR. Yes.

Mr. CONNALLY. Do you think that is wise?

Mr. CARR. I do.

Mr. CONNALLY. Would not that have a tendency to encourage absences from post and the chargés get increased compensation while away

Mr. CARR. I think it would not, because in the first place the cases in which commissioners are appointed are very few. For instance, looking back over

the period before the war you will find very few commissioners of the kind that are here described who were appointed by our Government. The war brought on extraordinary conditions and called for the appointment of a number of commissioners.

Mr. TEMPLE. Mr. Connally perhaps does not understand, as he was not here, that the commissioners are appointed only in cases where we have no accredited representative.

Mr. CONNALLY. I understand that, but you say also that chargés so appointed shall be entitled to receive the same salaries as commissioners. I ask if that would apply to temporary absence of an ambassador, during whose absence the chargé would take charge for that period of time? And if so, would he receive that compensation?

Mr. TEMPLE. In that case he would not be appointed a commissioner at all.

Mr. CARR. That is covered by existing law, which provides that if an ambassador or minister is temporarily absent the secretary in charge, being chargé d'affaires ad interim gets enough salary in addition to his regular salary to make his compensation equal to half that of his chief.

Mr. CONNALLY. Why do you add, then, in lines 6 and 7 that chargés d'affaires shall be entitled to receive the same salaries as a commissioner?

Mr. CARR. Because these chargés are not chargés d'affaires ad interim, as in the case of the secretary we are discussing. The secretary would take temporary charge of the legation or embassy during the temporary absence of his chief and become chargé d'affaires ad interim. He is entitled under the law to a total compensation of 50 per cent of his chief's salary. But the chargé d'affaires, as indicated in lines 6 and 7, is an officer who is appointed chargé d'affaires where there is no other diplomatic representative.

Mr. CONNALLY. He has two names, commissioner and chargé d'affaires, both?

Mr. CARR. No. He would be either a commissioner or chargé, and would represent us like Mr. Dressel, who has been commissioner in Berlin. Up to the time of the ratification of our treaty he was commissioner, but now, after the ratification of the treaty and until we can send a regularly appointed diplomatic representative, he has been appointed chargé d'affaires. Under this section he would receive exactly the same compensation for each office.

Mr. CONNALLY. That is right. I understand that.

Mr. CARR. But those cases where we appoint chargé—not chargé ad interim—are very, very few, and it was just to bridge over a difficulty of the kind I have described that the provision was inserted.

Mr. ROGERS. Can you state, offhand, where we now have either chargés of this kind or commissioners?

Mr. CARR. We have at the present time a chargé in Berlin. That is the only chargé we have in the service. We have a commissioner at Riga and an acting commissioner at Constantinople.

Mr. CONNALLY. How about Austria?

Mr. ACKERMAN. And Hungary?

Mr. CARR. In Austria and Hungary we have chargés also, or, rather, chargés d'affaires ad interim. The officers serving us in those countries are regularly appointed diplomatic secretaries serving as chargés d'affaires ad interim.

Mr. CONNALLY. Have you mentioned Turkey?

Mr. CARR. We have an acting commissioner.

Mr. ROGERS. Admiral Bristol?

Mr. CARR. Admiral Bristol is acting as commissioner.

Mr. MOORES. How about John Lind and David Hill? Were they commissioners?

Mr. CARR. No.

Mr. MOORES. Buchanan?

Mr. CARR. I think they were all special agents or special representatives.

Mr. ACKERMAN. What is the precise change in section 1676, as amended over the former section?

Mr. CARR. The precise change is to change that language in lines 3 and 4 and 5 and 6 as to how to arrive at 75 per cent of the compensation which the incumbent commissioner gets.

Mr. COCKRAN. What is the existing statute in that respect?

Mr. CARR. The old section 1675 says that unless otherwise ordered ministers resident and commissioners shall be entitled to compensation at the rate of 75 per cent of these other places, which would be abolished by the first part of this section 1 by the classification; and chargés d'affaires at the rate of 50 per

cent, and secretaries of legation at the rate of 15 per cent of the amount. That section has been very largely discontinued by other legislation.

Mr. COCKRAN. Is this not a codification of existing laws?

Mr. CARR. Yes.

Mr. COCKRAN. A reenactment of existing laws?

Mr. CARR. A reenactment of existing laws, without any substantial change.

Mr. COCKRAN. You do not change existing laws?

Mr. CARR. Change them slightly.

Mr. COCKRAN. What I want to get at, if I might explain, is that this is a grouping together in one general scheme of appointments several scattered statutes to be found in various session laws?

Mr. CARR. Yes.

Mr. COCKRAN. If there is to be a change I would like that point brought out.

Mr. CARR. There is no change in the first two lines.

Mr. COCKRAN. Speaking now whereabouts on page 3?

Mr. CARR. Yes.

Mr. COCKRAN. Does the first part of the section provide, in section 1675, for amending, or does it change existing law?

Mr. CARR. The first part of 1675?

Mr. COCKRAN. The first part of the statute here?

Mr. CARR. That is page 1?

Mr. COCKRAN. Yes.

Mr. CARR. Yes; it does. The old 1675 prescribed $17,500 for ambassadors and ministers in certain countries—France, Germany, Great Britain, and Russia—and $12,000 for certain other countries, such as Austria, China, Italy, Japan, Mexico, Spain, etc., and $10,000 for the rest. Meanwhile appropriation acts have departed from this basic statute and have rearranged some of those salaries in different amounts, and special acts have created new ambassadorships at $17,500, also contrary to this. Therefore this revision of 1675 undertakes to fix the salary of ambassadors, and provide a classification of ministers, in accordance with existing salaries, leaving it open for the Appropriations Committee hereafter, as Congress may deem proper, to increase the number appropriated for or reduce the number appropriated for without specifying places, as was done in the old legislation.

Mr. COCKRAN. Then the change, as I understand it, is that it does not attach a specific salary to a particular post?

Mr. CARR. Quite so.

Mr. COCKRAN. It leaves it to the State Department to apportion those salaries as it chooses and make certain appropriations. That is the actual change?

Mr. CARR. That is the actual change. The principle involved is the principle which Congress has already adopted, applying to diplomatic secretaries and consuls.

Mr. ROGERS. I think Mr. Carr misunderstood your question. Did you understand Mr. Carr to say that Congress hereafter was not to attach specific salaries to the different posts?

Mr. COCKRAN. I do not think Mr. Carr puts a limit on what Congress should do. What I meant to say was, in the absence of action by Congress, did it hitherto give authority to the State Department to assign salaries to different places and appoint them, as distinguished from the present condition attaching specific salaries to specific places? That is the present condition.

Mr. COOPER. This certainly provides for specific salaries.

Mr. COCKRAN. It does not mention the post. In other words, this eliminates the mention of the posts and provides specific salaries for ambassadors wherever they may be assigned. Am I right about that?

Mr. CARR. Yes.

Mr. FAIRCHILD. To whatever country the ambassador may be appointed.

Mr. COCKRAN. Yes.

Mr. CARR. Yes; but you understand, the President can not assign an ambassador to a country except by the advice and consent of the Senate.

Mr. COCKRAN. I understand all that.

Mr. CARR. Therefore, Congress has the authority.

Mr. COCKRAN. The Senate is not Congress.

Mr. CARR. It has that authority.

Mr. COCKRAN. The Senate is not Congress. I am only asking for information. What I want to get at is that the existing law assigns the ambassadors to certain posts and attaches a salary to each one. That is existing law. This

attaches certain salaries to the ambassadorial office and leaves discretion to be exercised as to the places.

Mr. CARR. Exactly so.

Mr. TEMPLE. But it can not be exercised to any place that has not been raised under the law to the rank of ambassador, and the President can not raise a legation to the rank of an embassy.

Mr. FAIRCHILD. With the advice and consent of the Senate.

Mr. COCKRAN. That was a feature of the appropriation act of 1909 or 1908. It was passed with a view to covering it. Congress and President Roosevelt were not very friendly at that time, and he had been raising two or three places to the dignity of ambassadorships. It was a subject of discussion with the Executive at that time and Congress passed a law forbidding that, so that under the existing statute the President would need authority of Congress to raise a ministership, as I understand it, to ambassadorial dignity. For the purpose of the act, does it not have the effect of repealing that act?

Mr. CARR. I do not think so, because this other law is mandatory: "Hereafter no new ambassadorship shall be created unless the same shall be provided for by act of Congress."

Mr. COCKRAN. That is the 1908 or 1909 act.

Mr. CARR. March, 1909.

Mr. COCKRAN. I thought so. It is distinctly a different provision on the subject than this act. The general rule of interpretation of statutes provides that a subsequent act dealing with a subject different from the former act shall prevail over it. Under this what is the limitation on the President to appoint an ambassador wherever he pleases? As I understand it, he has 14 ambassadors assigned to him and can send them where he likes under this act, can he not?

Mr. CARR. Congress limits all of that now by appropriation.

Mr. COCKRAN. That is what we have been trying to get away from.

Mr. CARR. This bill fixes a limit of the appropriation. The President has the power now to appoint 17 ambassadors if he chooses.

Mr. COCKRAN. Only to certain places.

Mr. CARR. And Congress has itself ignored the statute of 1909. But Congress controls the matter of compensation through appropriations.

Mr. COCKRAN. The President has the right now to appoint ambassadors only to certain places.

Mr. CARR. Only so far as compensation is concerned.

Mr. COCKRAN. Of course, he can send anybody and call him what he likes, the Grand High Pan-Jorum, and let him go to China or anywhere, and if he goes he goes without pay.

Mr. COOPER. Here is the language of the Constitution: "And by and with the advice and consent of the Senate shall appoint ambassadors and other public ministers."

Mr. COCKRAN. Of course he can.

Mr. COOPER. All that Congress has done is to pass a law, which, in my judgment, is not valid. It provides that he shall not appoint an ambassador until Congress has provided a salary. That is not, in my judgment, a constitutional law. I think he could appoint an ambassador to any country, and if he is nominated, and if the Senate should confirm the nomination, that man could go there and act as ambassador without any salary at all.

Mr. COCKRAN. There is no doubt about that.

Mr. COOPER. I thought at the time it was passed that that law of Congress was not valid at all. It provides in effect that he shall not appoint an ambassador until Congress has provided the salary. That is not constitutional at all.

Mr. CONNALLY. How many ambassadors have we now?

Mr. CARR. Fourteen.

Mr. CONNALLY. The effect of this bill is to raise the salaries of several of them?

Mr. CARR. No; there is no change in salary at all over existing appropriations.

Mr. CONNALLY. I thought you said that some of them drew $17,500 and some of them drew $12,000.

Mr. CARR. I said the old statute has been changed from year to year by appropriation acts, or, rather, the appropriation acts have departed from the old basic statute. This proposes to fix these positions at those salaries which are the salaries fixed by the existing appropriation.

Mr. TEMPLE. The appropriation acts have ignored the statutory limitations?

Mr. CARR. Quite so.

Mr. TEMPLE. We are making a statute now in harmony with the custom which Congress has been following.

Mr. CARR. Precisely so.

Mr. TEMPLE. So that those appropriations will no longer be subject to a point of order.

Mr. COCKRAN. According to Mr. Cooper, and I think there may be force in it, we have no act whatever creating ambassadors. The President does that on his own hook and we can then provide funds for them.

Mr. COOPER. This is for fixed salaries.

Mr. COCKRAN. That is, assuming by fixing salaries that we assume the existence of the offices, which, according to that, is at the discretion of the President. It attempts to give status, to fix under an appropriation an officer of the Government who, after all, is not a fixed officer.

Mr. COOPER. It recognizes that there are now 14 ambassadors representing this country.

Mr. COCKRAN. According to that contention, there is no such officer as a permanent ambassador. The ambassador is ambassador only so long as the President commissions him, but this makes him a permanent officer of the Government and has no effect at all.

Mr. TEMPLE. This determines that there shall be 14 ambassadors at a salary of $17,500.

Mr. COCKRAN. What right have we to fix that?

Mr. TEMPLE. It is fixed by Congress.

Mr. COCKRAN. You are assuming that. The difficulty about this legislation is that instead of providing an appropriation from year to year for things necessary and that are in existence, you are stabilizing as practically a fixed service of the country an ambassadorial office which in the nature of things is not fixed.

Mr. TEMPLE. It practically has been.

Mr. COCKRAN. I am not speaking about the practice. The President of the United States commissions an ambassador, who stays there only as long as the President of the United States wants him to stay. You do not provide for any ambassadors; you provide for the salaries.

Mr. ROGERS. May I suggest that this is a hearing, and that these questions may be thrashed out in executive session? Will you proceed, Mr. Carr, if the committee is ready?

Mr. COCKRAN. The chairman is perfectly right. I had forgotten that for the moment.

Mr. CARR. The next is section 3, which corresponds to existing appropriating practice, with one exception, and that is this proposes to pay the Turkish secretary of legation to Turkey $5,500 and the Turkish assistant secretary of legation to Turkey $4,000, or, in other words, the same as the secretaries in Japan and China, which is in accordance with the estimates of the State Department for the next fiscal year.

Mr. COOPER. Are we going to pay a Turk, a Japanese, and a Chinese to act as secretaries of our embassies?

Mr. CARR. No.

Mr. COOPER. This provides for a Japanese secretary of embassey in Japan.

Mr. CARR. Yes; but the Japanese, Turkish, and Chinese secretaries are all American citizens trained in the language of those countries.

Mr. COOPER. But this says Japanese secretary.

Mr. CARR. That is the title.

Mr. FAIRCHILD. "Who shall bear titles and receive compensation as follows."

Mr. ACKERMAN. Not a Japanese subject, however.

Mr. CARR. Genuine native-born citizens.

Mr. COOPER. A secretary of embassy to Japan would be sufficient. If you say a Japanese secretary of the United States embassy you mean a Japanese.

Mr. CARR. No.

Mr. TEMPLE. It means merely the secretary.

Mr. CARR. That is a local designation.

Mr. COCKRAN. That could be remedied to make it clear.

Mr. CARR. It is a local designation. The title is chosen and it has a local meaning.

Mr. COCKRAN. There is no question about the fact that he is a white man and an American.

Mr. CARR. A white man and an American, and a very capable one always.

Mr. COOPER. That is the most inaccurate language that I ever seen in a statute. Who is he? He is a Japanese secretary of our legation. Nine hundred and ninety-nine men out of a thousand, and intelligent, too, would understand that he is a Japanese. Who is that man? He is a Japanese secretary of our legation.

Mr. TEMPLE. But the phrase is defined by statute. In law, for instance, a man may have four or five or six parents, because it recognizes grand-parents. And here we have a phrase defined by statute.

Mr. CONNALLY. This is the statute we are making now.

Mr. TEMPLE. No; already existing law.

Mr. COOPER. "And the said offices are hereby established." Established in this law. I would establish it by a different name.

Mr. COCKRAN. That can be corrected by us after this hearing. I agree with you.

Mr. TEMPLE. We went into that carefully three or four years ago and there were reasons given them for perpetuating that title. I do not recall what they were.

Mr. CARR. The committee has struggled with that title for a number of years and has varied it from time to time, and the last time it took this form, which was done on my own representation, because the committee had chosen the title of "secretary and interpreter," which is usually understood in China and Japan as giving to our Chinese or Japanese secretary a position lower than that which he ought occupy in order to be of the greatest use. The reason for this is that the term "Chinese secretary" or "Japanese secretary" has a local meaning which nothing else will supply and give the man the same position. In other words, a Japanese secretary, let us say, has acquired a certain position in respect to Japanese diplomatic circles in Tokyo. The same is true in China. Give him some other title and he is always under the necessity of explaining who he is.

Mr. ROGERS. Does he rank next to the ambassador or minister, as the case may be?

Mr. CARR. No; he ranks with but after the counselor.

Mr. ROGERS. He ranks ahead of all the permanent secretaries?

Mr. CARR. Yes; I wish to say by way of overcoming what Mr. Cooper has in mind that in the first part of section 3 it might be specified that the President shall be and that he is hereby authorized to appoint a secretary and assistant secretary of embassy or legation in each of the following countries American citizens proficient in the use of the language.

Mr. FAIRCHILD. Instead of the word "persons."

Mr. CARR. That would be more specific and would be in accordance with the facts, since we never appoint a subject of either of those countries.

Mr. COOPER. That would be satisfactory, instead of the word "persons" to make it read "American citizens," in line 18, section 3. That would cover it exactly.

Mr. CARR. Yes, sir; that is the explanation.

Mr. ROGERS. Is there any change in the law in section 4?

Mr. CARR. There is no change in the law in section 4. Section 5, abolishing certain sections of the Revised Statutes, I can explain very hurriedly to amount to this. Section 1677 fixes or creates the office of consul general and secretary of legation in Turkey. That has not been followed for many years, and Congress has ignored the statute in the appropriation act, so there is no reason for that statute existing any longer.

In the case of section 1678—"the interpreter of legation to Turkey shall be entitled to receive $3,000 a year"—that is replaced by this provision, which has been carried in the appropriation act for a Turkish secretary of legation. Therefore that has no reason for existing.

Section 1679, interpreter to the legation of Japan. That has been replaced by the creation of the office of Japanese secretary. Section 1682 provides there should be but one resident minister to Guatemala and Nicaragua, etc.

That is rendered obsolete by the fact that Congress has created the position of minister to each of the Central American countries. Therefore, that has no reason for existing longer.

Mr. ACKERMAN. Now, they have come back into one federated union of those countries.

Mr. CARR. The situation, however, is quite different from that which prevailed at the time the original act was passed.

Section 1683 provides there shall be a diplomatic representative of the United States to each of the Republics of Haiti and Liberia, who shall be appointed by the President, etc., and there shall be accredited as minister residents and consul general. Congress has ceased to observe that statute or section and has created the position of minister extraordinary and plenipotentiary to Haiti.

Mr. CONNALLY. By statute or appropriation?

Mr. CARR. By appropriation.

Mr. CONNALLY. Then that is only by appropriation; it is not permanent law.

Mr. CARR. It was by appropriation.

Mr. CONNALLY. Ought we to put something in here to authorize that or will it not be subject to a point of order?

Mr. CARR. I do not think it is subject to a point of order. If section 1 of this bill goes through and is adopted, that will give the Appropriations Committee authority to appropriate.

Mr. CONNALLY. Does that number 30 include those two?

Mr. CARR. Yes, sir.

Section 1686 provides that when any diplomatic office held by any person is superadded to that held by another, such person shall be allowed additional compensation for his service in such superadded office, etc. That is an obsolete statute; it has gradually become obsolete through other statutes and appropriation acts. This bill provides that no salary appropriated for any ambassador or minister shall be paid to any officer receiving any other salary from the Government. As section 1686 is inconsistent with this, it ought to be repealed.

Section 1693 provides for the salary of interpreter at Bangkok, Siam.

There is another provision in here relating to the appointment of interpreters, which has been carried each year in the appropriation act. As the appropriating practice is now inconsistent with the statute, section 1693 has become obsolete and should be repealed.

Section 1696 provides that the only allowance to any vice-consulate or consular agency for expenses shall be an amount sufficient to pay for stationery and postage on official letters.

As this provision is now obsolete all recent appropriation acts have properly authorized the payment of other expenses for vice consulates and consular agencies. This statute ought to be repealed.

That covers all the obsolete statutes.

The next section, section 6 of this bill, is in accordance with existing law except that instead of $2,500 the current appropriation act calls for $2,000 as the salary of interpreters in Persia and Bangkok, Siam. If the committee thinks wise, I am sure it would be of advantage to the service to make that $2,500. Quite obviously it is practically impossible now to get a qualified man for that amount.

Mr. COOPER. What is the salary in Persia now?

Mr. CARR. $2,000. It is very difficult to find an American citizen of the proper qualifications to serve at $2,000 in those countries. As this bill would establish the amount definitely, I think it should be fixed at a maximum of $2,500.

Mr. ROGERS. I will say, parenthetically, as to sections 6, 7, and 8, that while they are substantially in accord with the appropriating practice ever since I have been on the committee, those sections have always been subject to a point of order in the House and a point of order has been made year after year. While these sections embody appropriating practice they do not embody existing law.

Mr. CARR. Section 9 is an enlargement of the old statute 1748 to agree with the current practice of Congress in making appropriations for the foreign service. Congress has been adding year after year an item specified in that section as originally enacted, and this brings it up to include the items which Congress has been accustomed to approve in appropriation bills for several years.

Mr. CONNALLY. You skipped sections 7 and 8.

Mr. COCKRAN. Those are existing laws.

Mr. ROGERS. I thought I had sufficiently indicated why those were here. Sections 6, 7, and 8 are in accord with existing appropriating practice for many years.

Mr. CONNALLY. The amounts?

Mr. CARR. The amounts are the same in all respects. That is the only thing to be said, I believe, about 1748; it simply brings the old statute into conformity with the present practice.

Mr. COCKRAN. Take section 8:

"That annual allowance for the rent of quarters and for the payment of the cost of tuition of student interpreters shall be made from such appropriations as may be provided therefor by Congress, which are hereby authorized."

That is to meet the Appropriations Committee, is it? All right.

Mr. ROGERS. Are you ready to proceed with section 10?

Mr. COCKRAN. How does section 9 change existing law?

Mr. CARR. That changes existing law by merely adding to the old basic act those items which have been covered from year to year by appropriations in agreement with the existing requirements of the Diplomatic and Consular Service.

Mr. COOPER. And authorizes the appropriation?

Mr. CARR. And authorizes those items in such amounts as Congress may appropriate.

Mr. CONNALLY. I notice our old friend, "Loss on bills of exchange to officers of the United States court for China." It just authorizes an appropriation and does not fix the amount.

Mr. CARR. It authorizes an appropriation in whatever amount Congress may deem proper.

Mr. ROGERS. Take up section 10.

Mr. CARR. Section 10, for transfer of diplomatic and consular officers, is the exact language that is now carried in the appropriation bills. This provision simply establishes the legality of the appropriation for that purpose.

Section 11 authorizes the President to make appropriate awards and acknowledge services of masters and crews of foreign vessels in rescuing American seamen or citizens from shipwreck or other catastrophe at sea, etc. That is in accordance with existing appropriations made for the purpose. This is merely to authorize the appropriations.

The same is true with section 12.

"That the President shall defray, at the public expense, the expenses of transporting the remains of diplomatic and consular officers of the United States, including consular assistants and clerks, who have died or who may die abroad or in transit while in the discharge of their official duties, to their former homes in this country for interment, and for the ordinary and necessary expenses of such interment at their posts or at home; and appropriations for such purposes are hereby authorized."

That is authorizing the existing legislative practice.

Mr. CONNALLY. Is not that the effect that when you direct the President he shall do it are you not absolutely obligating the Government, morally at least, to pay all expenses that may be incurred in all cases?

Mr. CARR. I suppose it might be held that this is a direction to the President.

Mr. CONNALLY. It can not be very much stronger—the word "shall."

Mr. CARR. To make an obligation against the United States for that purpose.

Mr. CONNALLY. Why not use the word "may"?

Mr. COOPER. The whole statute would be construed—the whole section, rather—and the language in sections 17 and 18 would be construed and in sections 10 and 11, "appropriations for such purpose as hereby authorized." That means the President shall defray when appropriations have been made. It does not mean that he shall do it.

Mr. CARR. I may say this much for this section, that this is precisely what Congress has been doing for years and years, except as to the form. This language follows the language that has been carried in the appropriation acts since 1873.

Mr. TEMPLE. In sections 10, 11, and 13 the Secretary of State is authorized to pay. In section 11 the President is authorized to make appropriate award. In section 13 the Secretary of State is authorized. Section 12 reads "the President shall defray."

Mr. CARR. Yes.

Mr. TEMPLE. What will be the objection to using the same language in each of these sections?

Mr. COCKRAN. I think it is a more peremptory necessity. I think a man who dies abroad is entitled to the right to have his remains brought home.

Mr. COOPER. I think it ought to be mandatory in the law.

Mr. CARR. I think, Mr. Temple, that the positions are quite different in those three things. It is one thing to be authorized to pay transportation or to reward somebody for rescuing American seamen, but it is quite another thing to be able to transport the remains of an officer of the Government, who dies abroad, in respect to which there can not be delay. Action has to be taken immediately, if taken at all.

Mr. TEMPLE. I have no objection to letting it stand as it is.

Mr. CARR. In fact, we have had one or two cases, almost scandalous, in their nature arising from the fact that we were not able immediately to take care of the remains of deceased officers for whom no other means were available.

Mr. FAIRCHILD. How about the expression "while in the discharge of their official duties"? Isn't that rather narrow? Supposing a diplomatic clerk or officer for a day is away from the discharge of his official duties—not actually in the discharge of his official duties—and is in bathing at a seaside resort, and is drowned?

Mr. CARR. We do not interpret that as literally as might appear to you—that is, a man regularly assigned to the office at Naples and who should die in transit to or from that office during his assignment would be entitled to the relief provided in this section.

Mr. FAIRCHILD. A different interpretation is given in the Navy Department if a seaman is drowned under just such circumstances abroad. I had one case that came to my attention where a United States vessel was at a foreign port, and one of her seamen was permitted to get off for a day from the vessel and went in bathing and was drowned. He was buried over there and they will not transport his body to this country and say they can not, because at the time of the accident he was off on a one-day pass. His family are so poor that the expense is large to them. They are so poor that they can not bring his body back and they are grieving because of that situation.

Mr. CARR. There have been for many years—always, perhaps—laws of our own Government, and also, I think, the same principle is generally recognized in foreign countries, that a seaman would have no claim for relief under those circumstances, unless at the time of his injury or death he was actually in the service of the vessel; that is to say, was on the vessel.

Mr. FAIRCHILD. This says "while in the discharge of official duties."

Mr. CARR. This has been used in our appropriation bill for a long, long time, and has a very definite administrative construction.

Mr. ROGERS. And it "gets by" the comptroller.

Mr. FAIRCHILD. I think that is a cruel ruling. Here is an American boy passing down the street of an American city and the Navy recruiting officer induces him to enlist in the service. He is taken abroad on a vessel and is buried over there because they will not pay the expense of transporting his body home.

Mr. COOPER. What would they have done in the case of that sailor if he had gone to church and a chandelier fell on him and killed him?

Mr. CARR. They would not have paid the expense under the ruling.

Mr. COOPER. That strikes me as a very narrow ruling.

Mr. CARR. Ought we not to consider it as an injury to the United States to have the body of a deceased officer on the other side? It is very desirable to take care of this in foreign countries and to bring them out of the foreign country.

Mr. FAIRCHILD. I would like to see included in this particular section a provision that includes men in the service of the Army or Navy of the United States.

Mr. CONNALLY. We can not do it in this bill.

Mr. ROGERS. We will meet again at 10.30 o'clock Friday morning.

(Thereupon the committee adjourned to meet again at 10.30 o'clock a. m. Friday, January 20, 1922.)

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Friday, January 20, 1922.

The committee met at 11 o'clock a. m., Hon. John Jacob Rogers presiding.

Mr. ROGERS. The committee will please come to order. On Wednesday, when we adjourned, I think we had completed the preliminary discussion of the first 13 sections.

Mr. COOPER. Something further was to be said about the qualification on the word "commissioner," on page 3. What was finally agreed upon?

Mr. ROGERS. It had not occurred to me at the time that the word "commissioner," as applied to diplomatic usage, had been in the law for a good many years and that the officer is an established and recognized one. Under those circumstances the word "commissioner," as it stands, is perhaps perfectly safe to employ. What do you think about that, Mr. Carr?

STATEMENT OF MR. WILBUR J. CARR, DIRECTOR CONSULAR SERVICE, STATE DEPARTMENT.

Mr. CARR. I was going to point out section 1675, in its original form, the dating of which I do not remember, but it must have been back in the sixties or seventies, I do not know, but it has this language, "and unless otherwise provided by law, ministers resident and ministers"—the word "commissioner" is used without further qualification or further description.

Mr. COOPER. There must have been in the mind of that legislator some definition of the word "commissioner." Otherwise he would not have used the word "commissioner."

Mr. CARR. I do not think so, because, I think, going back to those days, it was not uncommon to appoint a diplomatic representative as a representative to a country with which the United States did not maintain relations, and call him a "commissioner." For instance, the man who went to China——

Mr. COOPER. There are different kinds of commissioners, a commissioner to do a thing not strictly diplomatic or consular in its character, as to perform some specific act.

Mr. CARR. A State appoints a commissioner to take testimony, of course. The United States Government, so far I know, has no such official.

Mr. COOPER. The United States Government, Congress, has exclusive jurisdiction over this territory.

Mr. CARR. Would not a commissioner of that sort be specifically described as a commissioner of deeds, or a commissioner of an exposition, or a commissioner for something of that sort, whereas the context here, in which this word appears, I believe would place an effective limitation upon the function of that commissioner. It could not mean anything else in this context than that which it is intended to mean.

Mr. COOPER. All right.

Mr. ROGERS. Are there any further questions up to and including the end of section 13? If not, will you make a statement concerning section 14?

Mr. CARR. With reference to section 14, it was the purpose to draft a general statute which would authorize in general terms those appropriations for the participation of the United States in international commissions, conferences, and so on, of which there are a considerable number, and from time to time others occur by reason of legislation or treaties to which this Government becomes a party.

Those that are specified are subject to a point of order under the rules of the House, such as the Pan American Union, International Commission on Annual Tables of Constants, Bureau of Interparliamentary Union, for promotion of International arbitration, International Railway Congress, International Sanitary Bureau, United States section of the Inter-American High Commission, International Research Council, International Hydrographic Bureau, International Prison Commission. The participation of the United States in these establishments or enterprises has been explained many times before this committee and on the floor of the House, but each year somebody raises a point of order against one or more of them during the consideration of the appropriation bill. The language here, I believe, would so establish the authority for those objects as to make them not liable to a point of order.

Mr. FAIRCHILD. That is right as to the second paragraph of section 14, but, as to the first, is that not a sweeping authority? If that had been put on the statute books when Mr. Wilson was President, over in Paris it could have been construed as authorizing the League of Nations.

Mr. CARR. I do not think so.

Mr. FAIRCHILD. He could appoint a commissioner to that league.

Mr. CARR. We could not get into that without going into it the way the Constitution prescribes. For instance, most of the commissions under this paragraph would be commissions or congresses or conventions, in which we could participate by virtue of the treaties ratified by the Senate. There are certain other things where Congress itself duly authorizes, but there is no general statute.

Mr. FAIRCHILD. At the present time?

Mr. CARR. At the present time.

Mr. FAIRCHILD. This would be a general statute?

Mr. CARR. This would be a general statute, that is true.

Mr. FAIRCHILD. And under that sweeping authorization, while we might not be a member of the League of Nations, the President could get us involved in the League of Nations by appointing a commissioner or representative.

Mr. COOPER. The concluding lines of that same section provide "that the Executive shall not extend or accept any invitation to participate in any international congress, conference, or like event, without first having specific authority of law to do so."

Mr. CARR. That is already the law.

Mr. COOPER. He could not get us into the League of Nations.

Mr. CARR. This proviso is a reiteration of the statute that already exists.

Mr. COOPER. A commission could not get us into the League of Nations. He could not do it.

Mr. CARR. Furthermore, it would come up for the consideration of the House and Senate, in any event, on its merit. The only purpose of this would be to control the point of order.

Mr. SMITH. Is this a new provision of law?

Mr. CARR. Yes; this is a new provision of law, in this form. These different things have been authorized before, individually.

Mr. COOPER. The proviso at the end is the law of 1912?

Mr. CARR. The proviso at the end is the law of 1912; yes, sir.

Mr. FAIRCHILD. Oh, yes; that is all right.

Mr. ROGERS. Section 15 seems to be fairly self-explanatory, Mr. Carr, but perhaps you might indicate wherein it modifies the existing statutes.

Mr. CARR. Do you mind if I turn, just for a moment, to section 14, to point out some other things to the committee?

There is one thing now that this section is designed to do, and that is to place definitely under the Secretary of State all these international affairs, which, I believe, the committee would agree is where they ought to be. Without some statute of this sort there is only confusion. This would dispose of the matter for all time as regards international bodies.

Mr. BEGG. I would like to ask you a question about a paragraph that is past and one to come. Do you think it is essential to attempt to enumerate all the things, the incidental items in the upkeep of a consul at a legation—would it not be less confusing if you would say, "For the incidental expenses for the office," where you enumerate books, flags, postage, etc.?

Mr. CARR. That is following the old statute.

Mr. BEGG. If we are going to revise it, we must have a legitimate reason for it.

Mr. COOPER. The expenditure of public funds shall be limited in express terms, and where you can not do it you enumerate some things that must be, and then say "other," and "other" means they shall be of the same general character, otherwise you will have some extraordinary expenditures.

Mr. BEGG. That is probably true.

Mr. COOPER. Experience shows us that is true.

Mr. BEGG. If you say "other," why have you not the same extraordinary expenditures?

Mr. COOPER. Under the rule, the statutory construction those that come under "other" must come under the same general character as those enumerated. For instance, you could not buy a flying ship if you named stationery, books, and tables, etc.

Mr. BEGG. You could not buy a flying machine if you said incidentals necessary for the upkeep of the office.

Mr. COOPER. Suppose a fellow said, "One day we were surrounded and we had to have a flying machine."

Mr. BEGG. Then he would be justified in buying it. It seems to me that it is silly to enumerate everything a man would need.

Mr. CARR. As a matter of fact, Mr. Congressman, I dare say any of the departments of the Government would like for you to give them broad authority in their contingent fund.

Mr. BEGG. I think the Department of State is and ought to be a pretty high order of men.

Mr. FAIRCHILD. But not the other departments?

Mr. BEGG. You do not expect the same caliber of men in other departments that you do in the State Department. I would not expect it, and I do not believe it would happen often that you would get the same caliber of men in other departments.

Mr. COOPER. We had the Secretary of War impeached once for robbing people in contracts.

Mr. BEGG. Some of the others ought to have been impeached, probably.

Mr. COOPER. Yes, sir; but you can not always trust human nature in the most responsible positions, and this enumeration of things that a man can

buy, when he is five or six thousand miles away and spending other people's money, should be done.

Mr. BEGG. Why didn't you say that they could buy the necessary things?

Mr. CARR. On page 6, in the first place, the specifications show the kind of things that Congress approves the purchase of. Then it gives a reasonable latitude in addition to that for such other things as Congress could not foresee, and which perhaps none of us could at the present time, but which 10 years from now might arise; but they would have to be as Mr. Cooper explained—of the same general nature as the other expenses specified—and that has been for years the procedure which Congress has preferred to adopt with reference to appropriating for contingent expenses for these different branches of the service. I myself as an administrator find in many respects where my work would be facilitated if I had a lump sum appropriated with no restrictions on it, being required by Congress to submit an itemized account of these expenditures at the end of the year which Congress could itself check up and regulate, but that is not the way Congress prefers to deal with it.

Mr. BEGG. Take line 25, and I am through. On line 25, page 5, "furniture, furnishings, fixtures, and equipment" all mean the same thing. Some fellow wanted to get off on a line of alliteration, I think.

Mr. CARR. I wish they did mean the same thing.

Mr. FAIRCHILD. You did not learn that on the farm.

Mr. BEGG. Frequently cases come up. I was talking to a man yesterday about a sum of $3,500 which the Comptroller of the Treasury says they can not pay, and they are trying to take it out of his bill, unless we can pass a bill that will clear it up. The Comptroller of the Treasury will not pay it. There is no question about the man's claim.

Mr. COOPER. A fixture is not a furnishing.

Mr. BEGG. Some fixtures are furnishings.

Mr. COOPER. I don't think so.

Mr. BEGG. Certainly they are.

Mr. COOPER. A fixture is real estate.

Mr. BEGG. If it is screwed on.

Mr. COOPER. And a curtain or a bit of upholstery is not, or a bed.

Mr. BEGG. We all understand that.

Mr. COOPER. But you said they are the same thing.

Mr. BEGG. Well, I do not want my house furnished unless there are some fixtures there. What good would electric lights be alone?

Mr. FAIRCHILD. You would want furniture, fixtures, and equipment.

Mr. BEGG. Certainly, I would.

Mr. ROGERS. Are you ready to proceed with section 15?

Mr. CARR. Section 15 is an amendment of the present statute, R. S. 4122:

"The President is authorized to pay, out of such appropriations as may be made therefor by Congress, the making of which is hereby authorized, the actual expense of the rent and maintenance of suitable buildings in foreign countries for the incarceration of American convicts and those declared insane by the United States Court for China or by consular court, together with the salaries and wages of keepers of the same and the care of prisoners and insane persons."

The original statute allows an expenditure of $1,500 a year, and it also allows for the wages of keepers a sum not to exceed $5,000 a year. Congress in its appropriations has departed from the language of the statute and has not appropriated for the expense of renting of buildings or the incarceration of American convicts and those declared insane by the United States Court for China. Since the old statute was written the United States Court for China has been established and has declared a good many cases insane, and those people have had to be confined somewhere. Then, too, Congress has provided for salaries and wages of keepers of the prisoners and insane persons. This revised language only brings the whole statute up to date and in harmony with the practice of Congress for the last few years.

Mr. FAIRCHILD. It does not go any further than the statute law in appropriation bills.

Mr. CARR. Exactly so.

The CHAIRMAN. I wonder if we could remedy the difficulty in regard to the United States district attorney at Shanghai. Apparently nobody has jurisdiction over him. In President Roosevelt's time he was authorized to report to the Secretary of State. All of his reports are to the Secretary of State, and his leaves of absence are granted by the Secretary of State; but when it comes to

the question of hearing charges against him, nobody has jurisdiction. It is a peculiar state of affairs, and it was called to my attention by reason of the fact that the President of the United States appoints the district attorney at Shanghai. This man told me when I was out there last summer, two years ago, that he intended to resign as soon as his term of office expired. Doubtless before that time somebody preferred charges against him. A man came on and made charges against him, drinking or something of that sort, and then he came on and demanded a hearing, and he took this ground and said, "I do not want to resign under fire, but you know perfectly well I intended to resign." Inasmuch as these charges were filed against him he said, "I can not afford to go out until the matter has been gone through with." I saw the Solicitor of the State Department and he referred the matter to the Attorney General, and the Attorney General said, "We have nothing to do with it at all," and the Solicitor of the State Department did nothing. In the meanwhile this fellow was hung up, and he can not resign or get trial. Is he still out there?

Mr. CARR. I think so.

The CHAIRMAN. I think it is a most outrageous thing.

Mr. CARR. That case is linked up with a case of a judge of the United States court in China, and that case has not been disposed of, and I suppose it can not be disposed of until the charge is disposed of.

The CHAIRMAN. Are you sure this case is linked up with the judge?

Mr. CARR. I think so.

The CHAIRMAN. Even if it is I think it is outrageous.

Mr. COOPER. What is the status of the judge's case?

Mr. CARR. In the hands of the Attorney General.

Mr. COOPER. How long has it been in his hands for investigation?

Mr. CARR. Since June, 1921.

The CHAIRMAN. This man came on and stayed for three months, trying either to get a hearing or to get his case disposed of.

Mr. FAIRCHILD. Under what statute is he appointed?

Mr. COOPER. If the Attorney General has authority to investigate charges against a court, why not against the district attorney?

The CHAIRMAN. I would not be surprised if he had no jurisdiction against the judge, and that may be the reason the charges against the judge are held up.

Mr. CARR. They have not been held up. The case was referred to the Attorney General by the President. The act calls for appointment by the President, and the President referred the case to the Attorney General for investigation, as it was the custom to investigate that class of cases in respect to courts of the United States. The investigation has been going on, but I do not know what the outcome is.

The CHAIRMAN. The Attorney General referred it to the Solicitor of the State Department.

Mr. CARR. The Solicitor of the State Department is an officer subordinate to the Attorney General.

Mr. LINTHICUM. Is it a secret what the charges are?

The CHAIRMAN. The charges against this man are that he was drinking, and that he was quite offensive to a lot of American citizens in Shanghai. That last charge is untrue, because I spent a week or 10 days with him, and all of the people there (and he seems to know the best people there), all of them spoke of him in the best possible manner, and as to his drinking, I did not notice anything of the sort.

Mr. ROGERS. If there is any lack in the jurisdiction and control of the United States over these officials in China, I do not see why we can not put a section in this bill to take care of it.

Mr. FAIRCHILD. It would be an amendment of the statute creating that court and office.

The CHAIRMAN. It might be simply an amendment. If it were an amendment, there would be no objection to including it in that bill.

Mr. FAIRCHILD. If you bring it in advisedly you would want to have the law before us.

The CHAIRMAN. Certainly.

Mr. ROGERS. And decide if it needs an amendment.

Mr. FAIRCHILD. We can work it out at the first session of the committee.

The CHAIRMAN. We will have the solicitor come up. He knows about it. The man went back to China, the last I heard of him.

Mr. FAIRCHILD. And we can have him before us as well as the others.

The CHAIRMAN. Yes; it came up during Roosevelt's administration, and he did not waste any time with it. He issued some sort of an order——

Mr. FAIRCHILD. How unusual of him.

The CHAIRMAN. Directing the attorney to report to the Secretary of State, and since that time they have gone to the Secretary of State. It is an outrage. It is almost two years and he can not get a trial.

Mr. COOPER. President Roosevelt in making that order apparently consulted with the Secretary of State and the Attorney General, and acted upon his advice?

The CHAIRMAN. Sometimes he did and sometimes he did not.

Mr. ROGERS. Are you ready for section 16?

Mr. CARR. Section 16, gentlemen, is merely an attempt to bring into a general statute the various exceptions of the appropriation for the relief of seamen that have occurred in appropriation accounts. The old statute, the original statute, made it the duty of consular officers to relieve seamen. Then after appropriating for that Congress extended the appropriations to cover Alaska, then later on, when we acquired the Philippines, by the act of July, 1902, it extended the relief laws to seamen in the Philippines, and vested the custom officers there with the same duties that consuls exercise in foreign countries. When we acquired Hawaii they began to appropriate for relief in Hawaii, and the same with respect to Porto Rico and the Panama Canal Zone. There is no general statute which authorizes the relief for all those territories, but there ought to be.

Mr. ACKERMAN. Why don't we mention the Philippine Islands?

Mr. CARR. As a matter of fact it is already done, in the statute of 1902. It is already the law. This would give relief everywhere, as it has in the Philippine Islands.

Mr. ROGERS. This is modeled upon the act of 1902?

Mr. CARR. Quite so. It could be included——

Mr. MOORES. Have you covered all the ground there?

Mr. CARR. I think so.

Mr. COCKRAN. What is the idea of specifying anything when the first part of the section says, "United States or possessions." Does not that include all of them. Why specify a few, which, by the very fact that they are specified, would seem to justify an argument that the others were excluded, and, again, we might have other possessions. It seems to me that if it is confined to the United States or its possessions it would cover everything. What is the sense of specifying three or four possessions, if it is the intent of the statute to extend this operation to all the places? Why specify two or three of them?

Mr. CARR. There is no real reason.

Mr. COCKRAN. If we acquired other possessions, "the United States or its possessions" would cover them.

Mr. CARR. Maybe there should be a little change as to the officers who exercise these powers. The term ought, perhaps, to be broader than in here, since there might not be custom officers in all of those places.

Mr. COOPER. Let me call attention to the language in line 19, "its possessions," and so and so. That means that possession may include something new. If it said, "its possessions now," so and so, but it says, "its possessions," and also——

Mr. COCKRAN. These are also possessions.

Mr. FAIRCHILD. That language implies that they are not.

Mr. COCKRAN. That is the awkward part of the language.

Mr. COOPER. It says, "its possessions" and so and so.

Mr. BURTON. Suppose you substituted the word, "including."

Mr. CARR. I think there is an exception, "vessels going to and from the United States or its possessions and the Panama Canal Zone, the Territory of Alaska, the customs officers there being for this purpose substituted for consular offices in foreign ports." That is a different thing. That means relief of seamen on vessels between here and these different places, or between any of the possessions of the United States and these different places.

Mr. COCKRAN. I do not understand why it is necessary to specify the word "possessions" if the intention is to include all the possessions of the United States, the very fact that you mention some of them might raise the idea somewhere that there was an intention of excluding some of them.

Mr. BURTON. The United States or its possessions is one termini, and the Panama Canal Zone, the Territory of Alaska, and the Virgin Islands are the other.

Mr. FAIRCHILD. He will go from the United States to the Panama Canal Zone—the United States or its possessions—where else would it go but to the Canal Zone? What does "possessions" mean to apply to?

Mr. BURTON. Porto Rico, also.

Mr. COCKRAN. Why exclude Porto Rico from the enumeration? What sense is there in that?

Mr. ROGERS. We want to have language broad enough to take care of a voyage from Hawaii to the Philippines.

Mr. COCKRAN. That is covered by that language. It adds nothing to the force of the language.

Mr. ROGERS. If you say "going to and from the United States and its possessions" you do not care for a transit, say, from the Philippines or Porto Rico.

Mr. COCKRAN. Why not?

Mr. ROGERS. Because the voyage under that language must have one terminus in the United States and the other terminus in a possession.

Mr. COCKRAN. Very good, but why is that affected by mentioning some of the possessions and not mentioning the others?

Mr. FAIRCHILD. Why does it mention the Hawaiian Islands and not the Philippines?

Mr. CARR. Because the Philippines are provided for in a general statute.

Mr. ROGERS. I think it needs redrafting somewhat.

The CHAIRMAN. Is it the purpose to protect the seamen leaving the United States?

Mr. CARR. Yes, sir; seamen going on vessels between here and Europe are already provided for in the general law. Consuls take care of them, but the general law does not provide for seamen left destitute in Alaska, Hawaii, etc., for example.

The CHAIRMAN. The purpose of the section is to take care of seamen passing from the United States to its possessions.

Mr. CARR. Or seamen, for instance, being left destitute in one of the possessions, otherwise entitled to relief. A seaman left destitute in one of the possessions of the United States would be entitled to relief the same as if he had been left in a foreign country.

Mr. COOPER. Territory or place subject to its authority; that is just what you mean?

Mr. CARR. Yes.

Mr. COOPER. There is this difference between the Philippine Islands and Hawaii: The Philippine Islands are a possession, strictly. The Constitution never went there. It has gone to the Hawaiian Islands and Alaska. You could cover the whole subject by saying "subject to its authority."

Mr. CARR. It did not occur to me that you might broaden the language to that extent. If you are ready to report out a bill of that sort, this section can be redrafted, and the words "territories over which the United States has jurisdiction and authority" substituted, so as to make a statute cover all of them for all time.

Mr. ROGERS. Will you prepare something like that?

Mr. CARR. Yes, sir.

Mr. ROGERS. Will you put into the record at this point the laws relating to seamen, which are mentioned on line 17—simply a reference to the law—so we can see what we are doing?

Mr. CARR. I might tell you now about the Philippines. Under the statute of July 1, 1902, the laws relating to seamen on foreign voyages apply to seamen on vessels going from the United States and its possessions to said islands. The customs officers there being, for this purpose, substituted for consular officers in foreign ports. The effort was to place seamen in the Philippines on the same basis as they would be if left destitute in a foreign country. The principal laws relating to relief are as follows:

LAWS RELATING TO SEAMEN ON FOREIGN VOYAGES.

Section 4577 of the Revised Statutes:

"It shall be the duty of the consuls, vice consuls, commercial agents, and vice commercial agents, from time to time, to provide for the seamen of the United States, who may be found destitute within their districts, respectively, sufficient subsistence and passages to some port in the United States, in the most reasonable manner, at the expense of the United States, subject to such

instructions as the Secretary of State shall give. The seamen shall, if able, be bound to do duty on board the vessels in which they may be transported, according to their several abilities."

Section 4578 of the Revised Statutes, as amended by section 9 of the act of June 26, 1884 (23 Stat. 55), and section 18 of the act of June 19, 1886 (24 Stat. 83):

"All masters of vessels of the United States, and bound to some port of the same, are required to take such destitute seamen on board their vessels, at the request of consular officers, and to transport them to the port in the United States to which such vessel may be bound, on such terms, not exceeding ten dollars for each person for voyages of not more than thirty days, and not exceeding twenty dollars for each person for longer voyages, as may be agreed between the master and the consular officer, when the transportation is by a sailing vessel; and the regular steerage passenger rate not to exceed two cents per mile when the transportation is by steamer; and said consular officer shall issue certificates for such transportation, which certificates shall be assignable for collection. If any such destitute seaman is so disabled or ill as to be unable to perform duty, the consular officer shall so certify in the certificate of transportation, and such additional compensation shall be paid as the Comptroller of the Treasury shall deem proper. Every such master who refuses to receive and transport such seamen on the request of or order of such consular officer shall be liable to the United States in a penalty of one hundred dollars for each seaman so refused. The certificate of any such consular officer, given under his hand and official seal, shall be presumptive evidence of such refusal in any court of law having jurisdiction for the recovery of the penalty. No master of any vessel shall, however, be obliged to take a greater number than one man to every one hundred tons burden of the vessel on any one voyage, or to take any seaman having a contagious disease."

Section 4579 of the Revised Statutes:

"Whenever distressed seamen of the United States are transported from foreign ports where there is no consular officer of the United States, to ports of the United States, there shall be allowed to the master or owner of each vessel in which they are transported such reasonable compensation, in addition to the allowance now fixed by law, as shall be deemed equitable by the Comptroller of the Treasury."

Section 4526 of the Revised Statutes, as amended by section 3 of the act of December 21, 1898 (30 Stat., 755):

"In cases where the service of any seaman terminates before the period contemplated in the agreement, by reason of the loss or wreck of the vessel, such seaman shall be entitled to wages for the time of service prior to such termination, but not for any further period. Such seaman shall be considered as a destitute seaman, and shall be treated and transported to port of shipment as provided in sections forty-five hundred and seventy-seven, forty-five hundred and seventy-eight, and forty-five hundred and seventy-nine of the Revised Statutes of the United States." (This section shall not apply to fishing or whaling vessels or yachts, December 21, 1898, sec. 26.)

Section 4581 of the Revised Statutes, as amended by section 16 of the act of December 21, 1898 (30 Stat., 759), and section 19 of the act of March 4, 1915 (38 Stat., 1185):

"If any consular officer, when discharging any seaman, shall neglect to require the payment of and collect the arrears of wages and extra wages required to be paid in the case of the discharge of any seaman, he shall be accountable to the United States for the full amount thereof. The master shall provide any seaman so discharged with employment on a vessel agreed to by the seaman, or shall provide him with one month's extra wages, if it shall be shown to the satisfaction of the consul that such seaman was not discharged for neglect of duty, incompetency, or injury incurred on the vessel. If the seaman is discharged by voluntary consent before the consul, he shall be entitled to his wages up to the time of his discharge, but not for any further period. If the seaman is discharged on account of injury or illness, incapacitating him for service, the expenses of his maintenance and return to the United States shall be paid from the fund for the maintenance and transportation of destitute American seamen: *Provided*, That at the discretion of the Secretary of Commerce, and under such regulations as he may prescribe, if any seaman incapacitated from service by injury or illness is on board a vessel so situated that a prompt discharge requiring the personal appearance of the master of the vessel before an American consul or consular agent is impracticable, such seaman may be sent to a consul or consular agent, who shall care for him and defray the cost of his maintenance and transportation, as provided in this paragraph."

Section 1719 of the Revised Statutes:

"No consular officer, nor any person under any consular officer, shall make any charge or receive, directly or indirectly, any compensation, by way of commission or otherwise, for receiving or disbursing the wages or extra wages to which any seaman or mariner is entitled who is discharged in any foreign country, or for any money advanced to any such seaman or mariner who seeks relief from any consulate or commercial agency; nor shall any consular officer, or any person under any consular officer, be interested, directly or indirectly, in any profit derived from clothing, boarding, or otherwise supplying or sending home any such seaman or mariner. Such prohibition as to profit, however, shall not be construed to relieve or prevent any such officer who is the owner of or otherwise interested in any vessel of the United States from transporting in such vessel any such seaman or mariner, or from receiving or being interested in such reasonable allowance as may be made for such transportation by law."

Section 8 of the act of May 9, 1918:

"That every seaman, being an alien, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served three years upon such merchant or fishing vessels of the United States, be deemed a citizen of the United States for the purpose of serving on board any such merchant or fishing vessel of the United States, anything to the contrary in any act of Congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such after filing of his declaration of intention to become such citizen: *Provided*, That nothing contained in this act shall be taken or construed to repeal or modify any portion of the act approved March fourth, nineteen hundred and fifteen (Thirty-eighth Statutes at Large, part one, page eleven hundred and sixty-four, chapter one hundred and fifty-three), being an act to promote the welfare of American seamen."

Mr. ROGERS. I think you can redraft this section. If there is no objection let us now take up section 17. How does section 17 change the existing section of the revised statute?

Mr. CARR. Section 17 changes it by merely bringing it up to date. The existing section is much longer, and includes commercial agencies, vice commercial agents, deputy consuls, etc.

Mr. COOPER. Do you want to say, "Provide for the appointment" or to "appoint"?

Mr. BEGG. That was the exact question that I was going to raise in a little different angle. Is there any limit on the number of consular agents, or consuls? Could he send six or five?

Mr. CARR. He can already, and he should be able to do so.

Mr. COOPER. "Providing for the appointment" means something different than to "appoint."

Mr. BURTON. The President is authorized to appoint consuls by the Constitution, and it is unnecessary to authorize the President to appoint ambassadors. This language here provides for the appointment of vice consuls.

Mr. COOPER. We do not mean to say that he can appoint them. The Constitution authorizes him to appoint them. I notice that in the bill.

Mr. CARR. Might I suggest, gentlemen, that this particular phrase is taken bodily out of the old section 1695. It appeared in that old section "to provide for the appointment of vice consuls," which I take it to mean to provide not only regulations, but to appoint vice consuls and to provide for the establishment of vice consuls at various places. It did not occur to me to make any change in that language, since it has been standing on the statute books for years and years.

Mr. FAIRCHILD. The correct interpretation would be aided by striking out the comma after the word "therein," because, as Mr. Porter says, the real interpretation is explained after that comma in such manner and in such regulations. It is an authority to make regulations with reference to a consular district, and confusion arises by stopping at the comma.

Mr. ROGERS. Well, let us strike out the comma.

Mr. CARR. This language is identically that of the old statute. All we have been trying to do is to eliminate that part which Congress has superseded or modified and bring it into conformity with what is in effect at the present time.

Mr. COOPER. Do you hold that a vice consul must be confirmed by the Senate?

Mr. CARR. No; it has not been so since the beginning of the Government.

Mr. COOPER. Therefore this constitutional provision does not apply to vice consuls, and we are making a law which applies to the appointment of vice consuls. The Constitution is that we must nominate, with the consent of the Senate, ambassadors and consuls.

The CHAIRMAN. Such other officials can be authorized by law.

Mr. COOPER. Then the suggestion you make is that the Constitution governs this. It is the law that governs the appointment of vice consuls under the Constitution, and therefore "to provide for the appointment of vice consuls" ought to be "to appoint." That is the language of the Constitution.

Mr. ROGERS. I can not see the difference in meaning there.

Mr. MOORES. Does not that compel us, or imply that these positions shall be confirmed by the Senate? And that is what we are to avoid. It is apparent to my mind that the only purpose of this section was to compel general rules, regulations, governing the consular laws, and I can show you that in a minute. "No vice consuls or consular agents shall be appointed otherwise than under such regulations as they may have been or may be prescribed by the President." I am reading from the old law that we are amending. It is perfectly apparent that the sole purpose of this section was to require a general recommendation, regulating the appointment of consular officers. I think that is all this is for. That amendment goes to that extent.

Mr. COOPER. Does that say consuls and vice consuls?

Mr. MOORES. "Deputy consuls shall be appointed otherwise on such regulation as prescribed by the President." It shows the purpose of the section.

Mr. COCKRAN. He should determine that from time to time. That is the meaning of the section. That being the case, it is a province the President ought to have. I do not think there can be any objection to that provision.

Mr. MOORES. There was enormous pressure during the war from wealthy parents to have their children appointed to places abroad in the Consular Service in order to enable them to escape the draft. One man told me that there were 10 applications a day in the department. I do not know whether Mr. Carr knows that or not. But there was tremendous pressure to get boys over abroad into this service, and this act is necessary that vice consuls must be appointed by the President.

Mr. COCKRAN. The intent of this is to prescribe some rule which the President will have to follow himself when it comes to the appointment of vice consuls. That is what you mean?

Mr. MOORES. Yes.

Mr. COCKRAN. I think you are right.

Mr. ROGERS. Will you include in your statement the statutes in the original form which we are amending, and also the statutes which by section 5 of the bill we are repealing? I think it will be convenient for the committee to have them before us in ex tenso.

Are we ready for section 18?

Mr. FAIRCHILD. Yes.

Mr. ROGERS. Will you make a statement about that, Mr. Carr?

Mr. CARR. It has been the practice of Congress at different times to appropriate for the relief of widows of deceased officers—officers dying while abroad—both in the Diplomatic and Consular Service. The latest practice of Congress has been to appropriate a year's salary of the deceased officer for the benefit of his widow. It has been thought wise to include for the consideration of the committee something to provide aid for a widow or a minor child or children, which would be a very helpful thing.

Mr. MOORES. Did we not have a case where a man and wife both died last year?

Mr. COCKRAN. What is that?

Mr. MOORES. Last year we had a case where a man and wife both died.

Mr. CARR. I do not recall that.

Mr. ROGERS. I do not think we ever appropriated except for a widow.

Mr. CARR. We have had two cases within the last three or four years where officers have died under distressing circumstances, leaving wives and several children utterly without resources, and Congress did not appropriate anything.

The CHAIRMAN. In the appropriation act for the current fiscal year there is a provision for the benefit of a widow.

Mr. COOPER. Do you think that word should be "recommend" or "direct"? Who would make the attempt to recommend it?

Mr. FAIRCHILD. You do not require statutory authority to permit the Secretary of State to recommend us anything.

Mr. COOPER. That means "direct," in his discretion.

Mr. CARR. If you direct him to make the payment.

Mr. COOPER. The Secretary of State may, in his discretion, direct. but if he simply recommends—he has that authority now.

Mr. LINTHICUM. How can he direct Congress to appropriate money for a widow?

Mr. CARR. This authorizes the Secretary to recommend to Congress——

Mr. MOORES. That would not authorize the appropriation.

Mr. CARR. "And appropriations for this purpose are hereby authorized."

Mr. ROGERS. The intention of that is to be a recommendation to Congress.

Mr. CARR. Exactly.

Mr. LINTHICUM. We could do it without any recommendation.

Mr. ROGERS. This is intended to be an authorization to the Committee on Appropriations?

Mr. FAIRCHILD. Why not state it directly?

Mr. ROGERS. It is so stated in line 14.

Mr. COOPER. Congress can appropriate the money, and if he had it on hand in the department he could spend it. He can not wait. If a man died over there he can not wait until Congress reassembles to make an appropriation. The appropriation will be made and put in his hands for use in his discretion in cases of extreme emergency, and he wants to direct how that fund shall be spent.

Mr. LINTHICUM. He can not direct Congress to appropriate the money.

Mr. CARR. Of course, if you care to do it, you could go even further than that, and put into his possession a sum of money; you could give this the same status as some of the other standing or individual appropriations, by authorizing the Secretary of State, when a certain situation arises, to do so and so with the money.

Mr. COOPER. He may in his discretion direct the payment of any fund appropriated. It authorizes the fund.

Mr. ROGERS. I rather think, Mr. Cooper, that Congress will not care to set aside a fund for this general purpose. I think Congress will prefer to deal with each question separately, just as in the case of the widow of a deceased Congressman. I do not think we ought to give a year's salary except where there is something approaching destitution.

Mr. BEGG. What argument is there for paying a year's salary to an officer in the Diplomatic or Consular Service that does not lie with an Army officer? For instance, say the consular officer in Hawaii dies, and the Army officer, over there with his family, also dies. You should not pay a sum of money to one and not to the other. This policy of paying a year's salary is gradually growing, growing, growing. I can not see the argument for paying a year's salary to the men in any other country that does not lie with the Army officer, or does not lie to the destitute man's family in Washington, if he is a Government employee. When you come down to the hard facts of the case, why is not the Government clerk, who works in Washington for 40 years—why is he not entitled to a year's salary just the same as if he worked five years in a foreign country?

Mr. LINTHICUM. I think that practice grew up when we had not anybody abroad except consular officers.

Mr. BEGG. I am not criticizing; but if yo uare going to establish it, what argument is there that it does not apply to the Army officer as well?

Mr. LINTHICUM. There is not any.

Mr. CARR. May I answer that the Army officer is provided with compensation? He has war-risk insurance. A consular officer has no allowance, except transportation of his remains and his family back to this country.

Mr. BEGG. The Army officer might have war-risk insurance to-day; but if anyone goes in now, does he still have it? In other words, if I join the Army to-day, can I get it?

Mr. CARR. Yes. I understand that you could by applying for it within 120 days. The consular officer not only has no allowance, with the exception of that to bring his remains and his family back to this country but he can not

even get insurance. There are plenty of insurance companies which will not take him as a risk because of the fact that he is likely to serve in different parts of the world.

Mr. BEGG. Well, take a soldier. A soldier might be protected in another way, but can he get insurance?

The CHAIRMAN. They took them during the war at high rates.

Mr. CARR. If you had before you general legislation for the foreign service, I would quickly tell you my suggestion in regard to meeting that situation. The situation ought to be met very definitely in one particular way, and that is we ought to provide some kind of retirement system for officers in foreign services.

Mr. BEGG. I do not quarrel with that.

Mr. CARR. There is not any doubt that men serving as our officers all over the world on relatively low salaries are in a very disadvantageous position. They can not accumulate anything. They run great risks in the service, and when they die there is nothing they can look to——

Mr. BEGG. That lies with the Army captain.

Mr. CARR. The Army and Navy are in a better situation. When a Navy officer or an Army officer reaches a certain age he is retired on half pay or more.

Mr. BEGG. What good does that do him if he dies before he gets to that age and leaves a wife and children with nothing?

Mr. CARR. I understand there is a provision in regard to that.

Mr. BEGG. I do not think there is.

The CHAIRMAN. The Army officer has an advantage over the consular officer.

Mr. BEGG. Suppose he dies. He gets nothing.

The CHAIRMAN. He can take out insurance, and with the assurance of being paid a retirement salary he can keep his insurance up.

Mr. BEGG. I question whether he can take insurance.

The CHAIRMAN. In times of peace, certainly. I think the rate is low, in times of peace.

Mr. BEGG. I would like to have the facts in regard to that.

Mr. COCKRAN. That is no argument at all. Perhaps the Army officer is not properly provided for, and perhaps it is necessary to do that, but we will not get anywhere by comparisons. We want to see if this is proper; and if it is, perhaps the example of this legislation will act favorably.

Mr. ROGERS. I think a widow of an Army officer gets a pension.

Mr. COCKRAN. No. I think the question that we have to consider is whether this is proper or not to provide that under certain circumstances the Secretary of State, in his discretion, can give the widow or children of the man who died abroad a certain amount of money.

Mr. BEGG. The very language of this bill presupposes that each case is a special case, for special consideration.

Mr. COCKRAN. Yes.

Mr. BEGG. There is nothing definite in the paragraph; we are just writing words. We have done nothing.

Mr. FAIRCHILD. We are asking for an appropriation without asking for a point of order.

Mr. COCKRAN. That is to get around our own bills.

Mr. BEGGS. I do not think so.

Mr. COCKRAN. There is no reason for it except to get around our own rules.

Mr. BEGG. That is poor policy. I do not care who does it. It is poor policy to legislate for special cases, in special instances, in a general way. You say, "if he is actually destitute." That language means a special thing. Why not rub out the paragraph and let them come in each time with a case that is worthy, and I do not believe anybody would object. It is a pretty raw thing when a case is presented in the case of a diplomatic officer who had died, and a recommendation is made to pay the family a year's salary—it seems to me that it would be a pretty raw thing for anyone to object, and I do not believe there would ever be a point of order or a question raised.

The CHAIRMAN. Still you admit it to a point of order.

Mr. BEGG. Yes.

Mr. COCKRAN. Instead of changing the rules we are going to legislate against our own rules.

Mr. BEGG. I do not believe that.

Mr. COCKRAN. That is a fact.

Mr. CARR. The Department of State does not recommend appropriations of this sort on its own initiative. There is no legislation to allow the department to make that recommendation.

Mr. ROGERS. There are three cases that I recall.

Mr. CARR. The department's opinion has been asked, and it has recommended it as a humane and proper measure, but this language would give the Secretary of State notice that he might, in proper cases, such cases as Congress specified, recommend to it appropriations, and such appropriation items in the bill would not be subject to a point of order on the floor, as I understand it.

Mr. BEGG. What is the meaning of this? He says, "providing he actually is dependent on salary for support." The Secretary of State may, in his discretion, recommend the payment to such widow or minor child or children of an allowance not exceeding one year's salary at the rate of which such officer was receiving compensation at the time of his decease, and appropriations for this purpose are hereby authorized. Then under this bill your proposition is subject to a point of order. The Secretary of State decides what is to be done. Why give him any discretion if you are going to appropriate a year's salary for the deceased family of an officer?

Mr. CARR. The words are that they must be dependent upon their salary.

Mr. FAIRCHILD. Because if in any instance a widow of a consular officer can not get the recommendation of the Secretary of State and still thinks she ought to have that salary she could come to this committee and get the authorization.

Mr. BEGG. I do not grant that. If she is destitute she is entitled to it. In other words, let us either not legislate or make it applicable without anybody's discretionary powers.

Mr. BURTON. You do not say that provision vesting discretion in the Secretary of State, would prevent Congress from appropriating money to pay a widow and her children?

Mr. BEGG. Certainly, if I understand it. It would permit me to get out on the floor and make a point of order that there was no legislation.

Mr. BURTON. We can authorize the appropriation committee to do it.

Mr. BEGG. Under certain conditions. I think that lies under your authorization. It says if he recommends to do it.

Mr. BURTON. I favor going further and substituting the word "direct." It seems to me that his discretion would not be abused in the Department of State, and it would improve the morale and attractiveness of the diplomatic service if we made a lump appropriation. The embarrassing feature would be to determine just how much should be appropriated to meet the cases as they arrive. They could be provided for in the deficiency appropriations, however. I do not believe in bringing every case to Congress. We have too much business here now. It takes up too much time with trivial matters. It would be more likely to eliminate favoritism if that were left to the State Department.

Mr. MOORES. Would not a lump-sum appropriation of $10,000 take care of that?

Mr. CARR. It probably would.

Mr. BURTON. Of course there might be an ambassador who had a salary of $17,500 coming under this.

Mr. CARR. Yes, that is true. However, as Mr. Lay says, the ambassador would not be dependent on his salary.

Mr. ROGERS. I think we have developed from Mr. Carr all we need on this section; and we might decide in executive session what we shall do. Mr. Carr, will you indicate the purpose of section 19?

Mr. CARR. Section 19 merely groups together those offices and employments that have been appropriated for in the legislative bill, but which are not authorized by any general legislation.

Mr. BEGG. I want to raise a question about the salary of $240. Did not the last Congress make an allowance for a higher scale with that?

Mr. CARR. I do not recall it.

Mr. COOPER. That applies to those who work a whole day.

Mr. BEGG. I think it ought to be looked up.

Mr. ROGERS. If the committee should desire to include section 22, or its equivalent, in the bill, that would make it unnecessary, would it not, the inclusion of section 19?

Mr. CARR. Yes; I think it would, Mr. Chairman; except in this respect. Section 22, I believe, is practically the language of the section incorporated in the bill back in 1916 by Congress, for the purpose of establishing offices carried in the act of that year, and removing this from the liability to a point of order on the floor of the House.

Mr. COOPER. Do you know how the salaries in this section compare with the reclassification bill which passed the House?

Mr. CARR. No; I do not. I have not received it. I thought it might be premature to consider salaries in here with reference to the reclassification act.

Mr. COOPER. Some people might think it was premature to fix different salaries from those passed by the House in the reclassification bill.

Mr. BEGG. We did that the other day in the patent bill.

Mr. CARR. When that act becomes a law, would not that govern anyway, and as soon as it became a law after this? It occurred to me that either that law would govern when it became a law, or if this should come up after it became a law Congress could modify it?

Mr. COOPER. Very well.

Mr. CARR. There is one point in here which is not in accordance with existing legislation. Line 18, the salary of the Undersecretary of State is inserted here at $10,000, to agree with our estimates of 1923, and his private secretary at a salary of $2,500, instead of $2,000, to agree with our estimate.

Mr. COOPER. What is his present salary?

Mr. CARR. The present salary of the Undersecretary is $7,500.

Mr. COOPER. Do you think he should receive a greater salary than a Senator?

Mr. CARR. I would answer that by saying that I think a Senator should receive more salary.

Mr. COOPER. He does not.

Mr. CARR. I do think the Undersecretary of State has great demands upon him which cost a lot of money, and if the office were filled properly and carried on as it should be I imagine it would nominally cost the Undersecretary more to live than it would a Senator.

Mr. COOPER. You mean social entertainments?

Mr. CARR. Yes, sir; which goes with the position, which I believe the Senator does not have, generally speaking.

Mr. COOPER. If his salary were raised—does not the size of the salary make things go on the social side of it?

Mr. CARR. Not entirely.

Mr. COCKRAN. What is the necessity of this social function? Is it supposed that if the Secretary can not go to a certain function that he will let the Undersecretary go in his place?

Mr. CARR. He is supposed to be the alter ego of the Secretary.

Mr. COCKRAN. Eating dinners and drinking tea?

Mr. CARR. Yes; and a great deal more than that.

Mr. ROGERS. Is there any man second in authority in any of the departments now receiving $7,500?

Mr. CARR. The Undersecretary of the Treasury was given a salary of $10,000 by the deficiency act of June 16, 1921.

Mr. ROGERS. That was cut down by the House to $7,500 for the next fiscal year. I should think that we could not recommend any salary increases, however meritorious.

Mr. BEGG. Are all the salaries printed in this bill, save these being discussed, the actual salaries being paid?

Mr. CARR. Yes, sir. It seemed to the Secretary that $10,000 for the Undersecretary was not unreasonable, inasmuch as Congress has already adopted the $10,000 for the Undersecretary of the Treasury, on whom the demands were not as great as on the Undersecretary of State.

Mr. ROGERS. Let us proceed with section 20. Are the four passport bureaus authorized by section 20 now actually functioning?

Mr. CARR. Yes, sir; five are functioning. They are New York, San Francisco, Chicago, Seattle, and New Orleans. Some of them have been established since the recent law.

Mr. ROGERS. What law?

Mr. CARR. The deficiency act of June 16, 1921.

Mr. COOPER. In reference to the percentage of immigration.

Mr. CARR. Well, the deficiency act was provided for the purpose of facilitating the issuance of passports to people in different parts of the country, so that they might have some convenient place, more so than Washington, where they could make inquiries about passports, execute and submit their application, and get their passports and obtain action on passports already issued. Occasionally one of the passport officers, on direct instructions of the State Department, may complete and deliver a passport.

Mr. ROGERS. Can you give the approximate dates of the establishments of these five offices?

Mr. CARR. New York in 1915 and San Francisco in 1917. New York and San Francisco were first specifically appropriated for, I think, in 1919.

Mr. ROGERS. For the fiscal year 1919?

Mr. CARR. For the fiscal year 1919.

Mr. ROGERS. What is the total?

Mr. CARR. It totals approximately—I will have to add it up. The present appropriation at New York for 1922 is $20,500. The total for all five is $57,820.

Mr. ROGERS. Does the department regard these five offices as necessary for the future, and has it estimated them for 1923?

Mr. CARR. Yes.

Mr. MOORES. The establishment of the New York office saved me more money than anything else in the last four years.

Mr. COCKRAN. How does this section change the existing law?

Mr. ROGERS. There is no existing law.

Mr. COCKRAN. These bureaus have been established by appropriations?

Mr. ROGERS. Yes.

Mr. COCKRAN. This is intended to get around that?

Mr. ROGERS. I think this section is to give a basic law upon which appropriations may be founded.

Mr. COCKRAN. Exactly; so it will not be subject to a point of order?

Mr. CARR. I will say in respect to the bureaus, that the New York office is much more than self-supporting.

Mr. COCKRAN. I understand that.

Mr. CARR. We estimated that these offices would be more than self-supporting in this way, that if they did not exist the passport applications which they handle would be executed before local officials who would retain the execution or notarial fees. As it is these fees come to the Government.

Mr. COCKRAN. I merely wanted to know the reason for the paragraph. It is to give a permanency, so it will not be subject to a point of order.

Mr. ROGERS. Have you the figures showing the number of men dealt with at each of the five offices?

Mr. CARR. Yes. At New York, for instance, 52,000 persons were interviewed during the last five months of 1921, August to December; San Francisco, for the six months, July to December, 1921, 6,050; Chicago, July to December, 1921, 9,793; Seattle, July to December, 1921, 870; New Orleans, July to December, 1921, 3,120. Telephonic and telegraphic communications for the same periods in New York were 9,737; San Francisco, 2,999; Chicago, 1,952; Seattle, 889; and New Orleans, 1,658. Mail communications in New York were 2,600; San Francisco, 1,555; Chicago, 1,329; Seattle, 660; and New Orleans, 612. The total income from the New York office for the same period was $13,809, as against an expense of $4,100 for the five months, August to December, 1921.

Mr. COOPER. Four months.

Mr. CARR. Yes. San Francisco, income of $4,400, against an expense of $3,000; Chicago, an income of $4,700, against an expense of $8,400 (this includes rent; the other agencies are in Government buildings); Seattle, $948 income, against an expense of $1,861; New Orleans, $653 income, against an expense of $1,482. The New York office, of course, would help carry the expense of the other offices, and by its increased business, etc., it would help to cut down the other expenses.

Mr. ACKERMAN. That is a small amount in New York.

Mr. CARR. The passport fees ($9) in any event would be turned into the Government, and we cut in maintenance expenses, and we save execution fees ($1) not otherwise coming to the Government.

Mr. ROGERS. Does that represent $13,800?

Mr. CARR. Yes; it does.

The CHAIRMAN. I understood you to say your estimates included these five offices?

Mr. CARR. Yes. We thought the usefulness of the offices had been demonstrated to Congress, that they were in favor of maintaining them, and we asked another appropriation for them.

Mr. LINTHICUM. Has the establishment of branch offices lessened the work of the central office?

Mr. CARR. Yes; very much, by taking away correspondence through substituting local interviews; for instance, in New York, there were 52,000 interviews for the five months August to December, 1921, which would probably mean,

if that office did not exist, that a very large proportion of that many letters would have to be answered from Washington.

Mr. LINTHICUM. Has not it lessened the operating expense here?

Mr. CARR. Yes, sir; certainly.

Mr. ROGERS. We have discussed collaterally sections 21 and 22. Are there any general suestions on the bill?

Mr. COCKRAN. Is this the conclusion of the hearing?

Mr. ROGERS. If there are no further questions.

My suggestion is that we can excuse Mr. Carr, and the committee can take up in executive session this matter, and it might be that we will want to have Mr. Lay sit with us to answer questions that may occur to members.

Mr. SMITH. Over in Michigan there are a number of visitors who get information relative to passports. I was wondering if you maintained a bureau at Detroit?

Mr. CARR. There is no bureau in Detroit.

Mr. SMITH. They probably go there to see the consul.

Mr. CARR. They probably go there to see the United States court. The United States court has power to execute applications.

Mr. COCKRAN. Is it the idea to go into executive session now?

Mr. ROGERS. No; I think we had better adjourn now.

Is the committee willing to come together to-morrow morning for the executive session on this bill?

(No response.)

Mr. ROGERS. Let us meet at 10.30.

(Thereupon the committee adjourned.)

THE TEXT OF THE STATUTES AFFECTED BY H. R. 10213.

Section 1675 of the Revised Statutes:

"Ambassadors and envoys extraordinary and ministers plenipotentiary shall be entitled to compensation at the rates following, per annum, namely:

"Those to France, Germany, Great Britain, and Russia, each, $17,500.

"Those to Austria, Brazil, China, Italy, Japan, Mexico, and Spain, each, $12,000.

"Those to all other countries, unless where a different compensation is prescribed by law, each, $10,000.

"And, unless otherwise provided by law, ministers resident and commissioners shall be entitled to compensation at the rate of 75 per centum, chargé d'affaires at the rate of 50 per centum, and secretaries of legation at the rate of 15 per centum, of the amounts allowed to ambassadors, envoys extraordinary, and ministers plenipotentiary to the said countries, respectively; except that the secretary of legation to Japan shall be entitled to compensation at the rate of $2,500 per annum.

"The second secretaries of the legations to France, Germany, and Great Britain shall be entitled to compensation at the rate $2,000 each per annum."

Section 1676 of the Revised Statutes:

"The agent and consul general at Cairo shall be entitled to compensation at the rate of $3,500 per annum."

Section 1677 of the Revised Statutes:

"The consul general at Constantinople shall be the secretary of the legation to Turkey, but shall receive compensation only as consul general."

Section 1678 of the Revised Statutes:

"The interpreter to the legation to Turkey shall be entitled to receive $3,000, and such salary may be paid to an interpreter, notwithstanding he may not be a citizen of the United States."

Section 1679 of the Revised Statutes:

"The interpreter to the legation to Japan shall receive a salary of $2,500."

Section 1682 of the Revised Statutes:

"There shall be but one minister resident accredited to Guatemala, Costa Rica, Honduras, Salvador, and Nicaragua; and the President may select the place of residence for the minister in any one of those States. And he shall receive compensation at the rate of $10,000 per annum."

Section 1683 of the Revised Statutes:

"There shall be a diplomatic representative of the United States to each of the Republics of Haiti and Liberia, who shall be appointed by the President by and with the advice and consent of the Senate and shall be accredited as minister resident and consul general. The representative at Haiti shall be entitled to a salary of $7,500 a year, and the representative at Liberia to a salary not exceeding $4,000 a year."

Section 1686 of the Revised Statutes:

"When to any diplomatic office held by any person there is superadded another, such person shall be allowed additional compensation for his services in such superadded office at the rate of 50 per cent of the amount allowed by law for such superadded office and for such time as shall be actually and necessarily occupied in making the transit between the two posts of duty at the commencement and termination of the period of such superadded office and no longer, and such superadded office shall be deemed to continue during the time to which it is limited by the terms thereof."

Section 1696 of the Revised Statutes:

"The only allowance to any vice consulate or consular agency for expenses shall be an amount sufficient to pay for stationery and postage on official letters."

Act of June 11, 1874 (18 Stat. L., 70) (compiled Stat., Sec. 3145):

"The President shall be, and is hereby, authorized to appoint interpreters to the consulates at Shanghai, Tientsin, Fowchow, and Kanagawa, and to allow them salaries not to exceed, in either case, the rate of $2,000 a year; and to appoint interpreters to the consulates at Hankow, Amoy, Canton, and Hongkong, and to allow them salaries not to exceed, in either case, the rate of $750 a year; and also to allow, at his discretion, a sum not exceeding the rate of $500 for any one year to any one consulate in China or Japan, respectively, not herein named, for expenses of interpretation."

Section 1693 of the Revised Statutes:

"The salary of the interpreter at the consulate at Bangkok, in Siam, shall not exceed the sum of $500 a year; and no salary shall be allowed the marshal at that consulate."

Section 1748 of the Revised Statutes:

"The President is authorized to provide at the public expense all such stationery, blanks, record and other books, seals, presses, flags, and signs as he shall think necessary for the several legations, consulates, and commercial agencies in the transaction of their business."

Section 4122 of the Revised Statutes:

"The President is authorized to allow, in the adjustment of the accounts of the consul general at Shanghai, the actual expense of the rent of a suitable building to be used as a prison for American convicts in China not to exceed $1,500 a year; and also the wages of the keepers of the same, and for the care of offenders, not to exceed $5,000 a year; and to allow, in the adjustment of the accounts of consuls at other ports in China, the actual expense of the hire of constables and the care of offenders, not to exceed in all $5,000 a year."

Paragraph 2, section 84, act of July 1, 1902, establishing civil government in the Philippine Islands (32 Stat. L., p. 711):

"The laws relating to seamen on foreign voyages shall apply to seamen on vessels going from the United States and its possessions aforesaid to said islands, the customs officers there being for this purpose substituted for consular officers in foreign ports."

Section 1695 of the Revised Statutes as amended by the act of April 5, 1906 (34 Stat. L., p. 99), and the act of February 5, 1915 (38 Stat. L., p. 805):

"The President is authorized to define the extent of country to be embraced within any consulate [or commercial agency] and to provide for the appointment of vice consuls [vice commercial agents, deputy consuls] and consular agents therein in such manner and under such regulations as he shall deem proper; but no compensation shall be allowed for the services of any such vice consul [or vice commercial agent] beyond nor except out of the allowance made by law for the principal consular officer in whose place such appointment shall be made. No vice consul [vice commercial agent, deputy consul] or consular agent shall be appointed otherwise than under such regulations as have been or may be prescribed by the President."

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Saturday, January 21, 1922.

The committee met at 10.30 o'clock a. m., Hon. John J. Rogers presiding.

STATEMENT OF MR. FRED K. NIELSEN, SOLICITOR STATE DEPARTMENT.

Mr. PORTER. In order that this matter may be fully understood, I would like to read the correspondence to the committee, because I am very much impressed with the necessity for legislation to rectify this condition. Mr. Chauncey P. Holcomb, who was the United States district attorney at Shanghai, told me while I was in China in the summer of 1920 that he intended to resign in the following March, at the end of Mr. Wilson's term. My conversations with him convinced me that he believed he could make more money practicing law in Shanghai than he could as United States district attorney.

Mr. ROGERS. Does the United States district attorney there serve at the pleasure of the President, or does he hold for a fixed term of four years?

Mr. PORTER. I am not sure about that.

Mr. NIELSEN. At the pleasure of the President.

Mr. PORTER. I was firmly convinced he was a man of very considerable ability and that he desired to go out of service, but still did not want to leave before Mr. Wilson's term expired. Now, it appears that in January of 1921, Mr. William S. Fleming, a member of the bar of Shanghai, China, preferred charges against Mr. Holcomb. I never was fully informed as to the nature of the charges. At any rate, as soon as the charges were filed, Mr. Holcomb immediately came to the United States, that being along in the spring of 1921, and made an ineffectual effort to secure a hearing. As he stated to me, he did not want to retain the office. He was very anxious to resign, but he did not want to resign under fire, which was a very reasonable position for any man to take. He remained here, to my knowledge, about three or four months. He was unable to get a hearing, and, in fact, I believe was unable to secure even a copy of the charges. He filed an answer with the State Department responding to the charges as he had been informed they were by some friends in Shanghai. The State Department informed me that it was without jurisdiction, and the Attorney General stated that he had no jurisdiction. That is the reason I am bringing the matter up.

At this point it would be well, perhaps, to read the correspondence to the committee. I will first read my letter, dated October 25, 1921, to the Secretary of State, as follows:

"MY DEAR MR. SECRETARY: Some time in January of this year Mr. William S. Fleming, a member of the bar of Shanghai, China, preferred charges against Mr. Chauncey P. Holcomb, United States district attorney for China. I am inclosing herewith a letter which Mr. Holcomb handed to me about June 15, and in which is given a complete history of his case. Shortly thereafter I took up the matter with Mr. Nielsen, of your department, and the Attorney General's office, and was informed that neither department had jurisdiction over it.

"It appears that there is no express legislation on this matter, but that during and since Mr. Roosevelt's tenure as President the State Department has received all reports from the district attorney, granted leaves of absence, and so forth, and exercised a limited jurisdiction over the office in this manner.

"It is a very unfortunate state of affairs for Mr. Holcomb, because I know as a fact, from conversations that I had with him in Shanghai in the summer of 1920, that he fully intended to resign his position when the term of President Wilson expired, but, as he stated to me, he can not afford to resign with charges pending against him, and remained in the United States for upwards of three months in an effort to secure a hearing on the charges.

"Personally, I can not credit the charges because I was with Mr. Holcomb a number of days in Shanghai and met a great many of the prominent American residents of that city, and everyone spoke of him in the highest possible terms.

"I do hope that some way will be found whereby he can either receive a hearing or the complaint be quashed so that he can resign, as he intended to do on March 4 of this year, or as soon thereafter as his successor is qualified."

That was on October 25, 1921.

Mr. ACKERMAN. Whom was that letter from?

Mr. PORTER. That letter was addressed by me to the Secretary of State.

On November 1, 1921, I again wrote the Secretary of State, as follows:

"Permit me to acknowledge the receipt of your letter of October 29, file So—, in regard to the charges preferred against Mr. Chauncey P. Holcomb, United States district attorney for China.

"Several months ago I was informed that these charges had been referred to the Attorney General, but upon investigation I found that he disclaimed jurisdiction over the matter, as stated in my letter of the 25th ultimo.

"In all justice this man is entitled to an adjudication of these charges so that he can resign his position without any stain upon his record, and I trust that either the Department of State or the Attorney General's office will take jurisdiction so that the matter can be disposed of."

Mr. ROGERS. Have you the intervening letter there?

Mr. PORTER No; I have not the reply of the State Department to that letter now.

Mr. COOPER. How long has this matter been pending?

Mr. PORTER. He has finally resigned. When did he resign, Mr. Nielsen?

Mr. NIELSEN. His resignation has not yet been accepted.

Mr. PORTER. Then he has not actually resigned?

Mr. NIELSEN. He has resigned.

Mr. PORTER. He is still in office?

Mr. NIELSEN. Yes, sir.

Mr. PORTER. Mr. Holcomb called on me about the 1st of May, 1921, and I started my efforts to have some relief afforded him. He had with him a letter, or he later wrote a letter dated June 10, 1921:

WASHINGTON, D. C., *June 10, 1921.*

The honorable the SECRETARY OF STATE,
Washington, D. C.

SIR: I have the honor to address you in re my position as United States district attorney at Shanghai.

I was appointed over six years ago, and have done my best to perform the duties of my office, and have never been advised that my services were not satisfactory to my superior officers.

About the first of the year I wrote a letter to Hon. L. Heisler Ball, United States Senator from Delaware, telling him that I intended resigning at the change of administration.

A few weeks thereafter I was told in Shanghai that a member of the bar of our court there, Mr. William S. Fleming, had preferred charges against me. I endeavored to ascertain what they were, but he had left Shanghai for Washington and his partners refused to tell me their nature. I followed him to Washington, and in the presence of R. S. Haskell, Esq., of the Shanghai bar, asked Mr. Fleming to tell me, and he also refused. I took the matter up with Mr. Carr, director of Consular Service, who referred me to Mr. Nielsen, solicitor, who in turn referred me to Mr. Hackworth, with whom I have filed certain papers in reply to Mr. Fleming's charges, copies of which I received from Shanghai, where Mr. Fleming's partners were circulating the same.

For personal reasons I very much wish to retire from the Government service, and shall be glad to place my resignation in the hands of His Excellency the President, but feel that, inasmuch as charges have been made against me, before doing so the department should investigate them, giving me a chance to defend myself, which I can not well do until I am informed of the exact nature of them, as the officials of the department will not say just what they are or whether the copy I have that was circulated in Shanghai by Mr. Fleming's partners is a correct one. May I ask that if an investigation is to be held that I be permitted to offer witnesses who are in this country as well as in China?

In case no investigation is to be held, I respectfully request you to submit my resignation to His Excellency the President, to take effect September 1 next, or as soon thereafter as my successor is qualified; and I shall be glad, after his qualification here, to attend to the duties of the office in Shanghai, without remuneration, until his arrival there, to which place I am returning in the next few days.

I have the honor to be, sir, your obedient servant,

CHAUNCEY P. HOLCOMB,
United States District Attorney for China.

Mr. PORTER. Now, I held up this letter for three months on account of the last paragraph, because I did not want him to resign under fire. I did not think it was right.

Mr. Nielsen, was Mr. Holcomb ever furnished with a copy of the charges against him?

Mr. NIELSEN. I really can not say. I will have to look that up.

Mr. PORTER. He is still acting as United States district attorney?

Mr. NIELSEN. Yes, sir.

Mr. PORTER. When was his resignation received?

Mr. NIELSEN. It has not been accepted yet. It was recently received, and, of course, in due course it was referred to the President, who has informed the department that the resignation might be accepted.

Mr. PORTER. Was the resignation based on this letter which I have read, and which I sent to the department in October, 1921?

Mr. NIELSEN. No, sir; I think the resignation was very recently received—perhaps a week or two ago.

Mr. PORTER. You told me when I called on you that there was not any branch of the Government that had complete jurisdiction over the United States district attorney at Shanghai, and that several years ago you tried to have legislation passed that would cure the trouble.

Mr. NIELSEN. Yes, sir; I think I said substantially that.

Mr. PORTER. And you took the position that the Attorney General, if anyone, had jurisdiction over him?

Mr. NIELSEN. I would say that it might be proper for him to act for the President in a case of that kind. I doubt whether under any statute he has any jurisdiction over the district attorney.

Mr. PORTER. But it is a fact that since Mr. Roosevelt's term, or during Mr. Roosevelt's term and since, the United States district attorney at Shanghai has made all of his reports to the State Department?

Mr. NIELSEN. He has been in communication with us just as the judge has been from time to time, and as a practical matter we keep a certain supervision over the affairs there, because the court is a treaty court, an extraterritorial tribunal.

Mr. PORTER. When he desires a leave of absence, does he secure it from the Attorney General, the President, or the State Department?

Mr. NIELSEN. He writes to us, and so does the judge; and I have, when I have been in the department, as I have been from time to time, made some suggestion in regard to communications received. I have suggested, I think, something to this effect—that if the judge or district attorney thinks that his duties permit of absence at such times, or permit of his departure from China, the Secretary of State perceives no objection to such departure.

Mr. PORTER. Was not some legislation on this subject actually introduced a number of years ago?

Mr. NIELSEN. You spoke to me last night in regard to this matter, and I have been so unusually busy this morning that I did not have time to look into it until just before I came up here. I picked up a House bill, which I have here—No. 4281, Sixty-fifth Congress, first session—and it is probably the one I had in mind and the one I spoke to you hurriedly about when I met you up at the department one day last spring. A bill was introduced, and I think that that bill perhaps was framed originally by Judge Lobingier, and I believe the Department of State made some suggestions as to amendments.

Mr. ROGERS. If I may interfere here, this is a bill which was prepared in the first instance by Judge Lobingier when he was in this country on leave. He appeared before the committee and testified at some length as to the necessity for supplementing the existing legislation relative to the United States court in China. A subcommittee was appointed, of which Mr. Linthicum was the chairman at that time, and I was the minority member. We gave the matter a great deal of attention and reported out the bill which is before me, labeled "subcommittee print." But the pressure of the war, which had just begun, took the entire attention of the committee and of Congress, and nothing further, as I recall it, was done in promoting the passage of the bill. The date which the print before me bears is May 9, 1917, which was just after the declaration of war .

Mr. PORTER. Of course, I do not want to interfere with the provisions of the present bill, but I think the committee will agree with me that a man in the Government service should have an opportunity to meet charges brought against him, or he should be at least entitled to a copy of the charges. I know that this ma stayed here for three months at heavy expense, trying to secure a hearing and that he could not get it. Apparently, the only reason was

the fact that neither the State Department nor the Attorney General's office would give him a hearing, because both disclaimed jurisdiction over him.

Mr. SMITH. If that reasoning were accepted by the committee, how would it affect this case?

Mr. PORTER. I am thinking of the future.

Mr. COOPER. What were the charges made against him?

Mr. PORTER. He was never able to ascertain that.

Mr. COOPER. The man himself must have had an intimation of what they were, or, otherwise, he would not have filed what he called a reply.

Mr. MOORES. The charges that he told you about were in regard to violations of the Volstead Act.

Mr. PORTER. And that he was not popular with some American residents of Shanghai.

Mr. COOPER. That last would not be a charge at all.

Mr. BROWNE. I would like to ask whether there is any rule to prevent those being furnished him when he asks for them. He states in that letter that he asks for them and was unable to ascertain what the charges were, although they were generally circulated in Shanghai.

Mr. NIELSEN. I will try to throw some light on the whole situation, if you desire me to do so. Those charges were filed. First, I would like to say with reference to the letter that Mr. Porter has read, that while it correctly reports the situation, I believe, from the legal standpoint, and while from the standpoint of the facts, it is substantially correct, yet it might be a little misleading. It would seem that the man was buffeted from one place to another, and there may be some little truth in that. It is stated in the letter that I referred him to Mr. Hackworth. Now, I doubt if anybody can be much more busy seeing people, and, at the same time, trying to do some hard pieces of work relating to international law and treaty matters, than I am. Mr. Hackworth is one of my assistants. He is a competent man of long experience, and is familiar with work relating to far eastern questions. It is just possible that when Mr. Holcomb came to see me, I was called off by the Secretary at that time, and that I suggested that Mr. Holcomb talk with Mr. Hackworth. I have to do those things occasionally. I have talked with Mr. Holcomb, and have tried to cooperate with him and help him. Incidentally, on another occasion, when I was in the department, I went over this bill with Mr. Holcomb. I went over it with him very carefully, and I think most of my suggestions were incorporated into this draft.

Mr. PORTER. Pardon me for interrupting you, but that was long before the filing of the charges against Mr. Holcomb. In other words, you felt that Mr. Holcomb was sufficiently informed to consult with him in regard to the bill?

Mr. NIELSEN. Yes, sir. Those charges were never fully gone into in the Department of State, although, I believe, one or two of my assistants have gone into them. Charges are frequently brought against representatives in foreign countries, and I think that unless they are supported by evidence they are not always carefully examined. I myself recently examined some rather serious and disagreeable charges that were filed against certain representatives in foreign lands, and the Undersecretary of State thought, I understand, that they were so utterly unsupported by evidence that there was no occasion for an investigation, or, at least, not at that time.

Mr. COOPER. Did the Undersecretary or you notify them of the existence of those charges, or did you write to the men who filed them, saying that if they had any evidence they should submit it, or did you just leave them unacted upon without any notification to the parties to file evidence?

Mr. NIELSEN. I am sure that they were told that if they wanted to support those charges they should support them by something better than what they had produced or filed.

Mr. COOPER. If they write a letter, do you write a letter in reply, so as to have a written issue or a written statement of the facts on both sides?

Mr. NIELSEN. Yes, sir.

Mr. COOPER. Have you any correspondence so we can see just what has been done?

Mr. PORTER. He is not talking about this case.

Mr. NIELSEN. I merely spoke by way of illustration as to the investigation of charges generally. The charges under discussion here were filed. They did contain all sorts of allegations against Holcomb and the judge over in China. We are embarrassed on such occasions in that we have not the jurisdiction

to investigate them. In due course they were brought to the attention of the President, and he designated the Department of Jusice to investigate them. It is my impression, although I do not want to speak for the Department of Justice, that they do not think the charges against Mr. Holcomb necessarily warrant a long, drawn-out, and expensive hearing, and so they have not acted on them. In the meantime Holcomb has resigned.

Mr. PORTER. Do you consider it fair to a public official to have charges of that sort remain on file for almost two years without allowing the man an opportunity of answering them or without giving him a copy of them?

Mr. NIELSEN. I employed an illustration to make clear that point. I wanted to bring out the point I have in mind that there are times when charges are filed when I should think an official would feel pretty well satisfied if they were not dignified. If somebody should file charges against me with the Secretary of State in connection with the discharge of my official duties, I should prefer, at present at least, if he should disregard them. I think it would show a little more confidence in me than if he ordered an investigation.

Mr. BROWN. You would have enough curiosity to want to know what they were?

Mr. NIELSEN. Yes, sir.

Mr. PORTER. You would have some curiosity to find out what they were?

Mr. NIELSEN. Yes, sir.

Mr. SMITH. There is another element. This man wanted to get out of the service just as soon as he could get his record clear. As it is he was forced to get out with that hanging over him. If he wanted to stay in, your view would be absolutely correct.

Mr. NIELSEN. Yes, sir. It is a matter of opinion. My judgment is no better than yours. I believe Mr. Porter is right in saying that, perhaps, the unnecessary delay in these matters grew out of the fact that there is no legal responsibility. I should say that if the district attorney were by statute under the jurisdiction of the Secretary of State in a general way, as I understand the Federal district attorneys are under the Department of Justice, when matters of that kind come up there would be an agency to act promptly, and the Department of State would probably promptly refer the matter to the President and, I presume, the President, in view of such a statute, would refer them back to us. As it is, there is some delay. Ultimately the matters relating to the judge and Mr. Holcomb went to the Department of Justice. I am not going to say whether I think they have acted slowly or with due expedition.

Mr. PORTER. Pardon me, but do you not know that the Attorney General refused to act in this case, refused to have anything to do with it, almost a year ago on the ground that he had no jurisdiction?

Mr. NIELSEN. That may well be.

Mr. PORTER. Did I not inform you of that fact? You told me to go over and see him. Then I went back to your office. The Attorney General told me the story of the Roosevelt action, that the Department of State had received reports and granted leaves and everything of that sort and rather convinced me that if there was any jurisdiction anywhere it was in the State Department. Then you said to me that there is only one remedy, legislation. That is why I asked to have you come here.

Mr. ROGERS. I think the history of this court and the legislative character of this court is pretty well brought out by the fact that everything relating to it comes before this committee. This China court is regarded as a foreign affairs matter.

Mr. COOPER. With extraterritorial jurisdiction.

Mr. ROGERS. Yes. It seems to me that all the evidence shows that this is a State Department rather than a Department of Justice matter.

Mr. COOPER. I think so.

Mr. ROGERS. If there is a defect in the law which leaves a loophole, the bill H. R. 9937, which we have been considering, affords abundant opportunity to remedy that defect.

Mr. BROWN. Waiving the question of jurisdiction, I can not see why a man charged with an offense has not a right to find out what he is charged with and to have a copy of the indictment against him. I can not see why either the State Department or the Attorney General's office would not give him a copy of the charges.

Mr. SMITH. I should like to inquire whether the reference to the President of this case was accompanied by a recommendation or did he act simply on the papers?

Mr. NIELSEN. The reference was from the Department of State.

Mr. SMITH. It was referred to the President?

Mr. NIELSEN. Yes, sir.

Mr. SMITH. Was that reference accompanied by a recommendation?

Mr. NIELSEN. As to investigating the charges—we made no recommendation on that point. What we did do, as I recall, was that we asked the President whether an investigation should be made and by whom it should be made. I think there was an intimation that the Department of State would act unless, perhaps, the President saw fit to refer the matter to the Attorney General. In that connection, we had in mind that an investigation in China might be proper and I did not know just where the fund would have come from. We looked into the statutes and we were not certain where we could get the funds and we thought that the Department of Justice had some bureau of investigation with loose funds. To my mind it seemed proper that a man should be sent to China, many miles away. Then the matter was referred by the President, to the Department of Justice. They did not send a man to China; they conducted hearings here. The judge of the court came over here and has appeared before the Department of Justice. It seems to me that they may not have given serious consideration to the charges against the district attorney.

Mr. SMITH. What became of the judge's case?

Mr. NIELSEN. It is still pending.

Mr. SMITH. Are there the same charges against him?

Mr. NIELSEN. No, sir; I do not suppose the charges are the same by any means.

Mr. COCKRAN. How does the Department of Justice get jurisdiction over the judge?

Mr. NIELSEN. As, I think, Mr. Rogers brought out, or he raised the question——

Mr. COCKRAN (interposing). You are speaking of the judge?

Mr. NIELSEN. Yes, sir. The judge has a 10-year term subject to removal by the President for cause. I assume that the Department of Justice is examining into the question as to whether there is cause for removal.

Mr. COCKRAN. The judge over there is removable by the President?

Mr. NIELSEN. Yes, sir.

Mr. COCKRAN. It is not necessarily an impeachment?

Mr. NIELSEN. No, sir.

Mr. ROGERS. Let me read a sentence of the statute of June 30, 1906:

"The tenure of office of the judge of said court shall be 10 years, unless sooner removed by the President for cause; the tenure of office of the other officials of the court shall be at the pleasure of the President."

Mr. COCKRAN. I suppose the theory is that unless the President feels moved to action, it is nobody's business?

Mr. PORTER. Mr. Nielsen, before you leave will you drop the committee a little note stating just when Mr. Holcomb's resignation was received in Washington, and when action was taken by the President?

Mr. NIELSEN. Yes, sir.

(Thereupon, the committee adjourned.)

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